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

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RE: IN THE MATTER OF ADVICE LETTER NO. 1672-ELECTRIC FILED BY PUBLIC SERVICE COMPANY OF COLORADO TO REVISE ITS COLORADO PUC NO. 7-ELECTRIC TARIFF TO IMPLEMENT A GENERAL RATE SCHEDULE ADJUSTMENT AND OTHER OTHER CHANGES EFFECTIVE JULY 18, 2014.	)	**PROCEEDING NO. 14AL-0660E**
IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO FOR APPROVAL OF ITS ARAPAHOE DECOMMISSIONING AND DISMANTLING PLAN.	)	**PROCEEDING NO. 14A-0680E**

**RESPONSES TO SETTLEMENT QUESTIONS ISSUED
IN DECISION NO. C15-0126-I**

February 11, 2015

Public Service Company of Colorado ("Public Service" or the "Company"), hereby provides this response to the questions presented by the Commission in Decision No. C15-0126-I regarding the Settlement Agreement presented to the Commission on January 23, 2015. Pursuant to Decision No. C15-0126-I, the Commission required the Settling Parties to respond jointly and to indicate that all Settling Parties agree to the response.[1] Public Service is filing this response on behalf of itself and all the other Settling Parties, namely the Staff of the Colorado Public Utilities Commission ("Staff"), the Colorado Office of Consumer Counsel ("OCC"), Colorado Energy Consumers ("CEC"), Colorado Healthcare Electric Coordinating Council ("CHECC"), Climax Molybdenum Company and CF&I Steel, L.P. d/b/a Evraz Rocky Mountain Steel (collectively "Climax/Evraz"), Energy Outreach Colorado ("EOC"), the Federal Executive Agencies ("FEA"), the Kroger Co. ("Kroger"), and Wal-Mart Stores, Inc. and Sam's West, Inc. ("Wal-Mart"). Although filed by Public Service, this document presents the joint response of the Settling Parties and all Settling Parties hereby indicate that they are in agreement with the answers to the Commission's questions that are set forth herein.

[1] See ¶5 of Decision No. C15-0126-I. Energy Outreach signed the Settlement Agreement as one of the Settling Parties because it supported the Settlement as a whole, even though it did not take testimonial positions in the case. On the same basis, that is, based on its support of the settlement as a whole, Energy Outreach Colorado has agreed to join these responses as a Settling Party in accordance with the Commission's order.

a. General Matters

i. Clarify the meaning of "positions contesting those rates that contravene those principles." To what extent may parties contest in future proceedings that a certain proposal from Public Service Company of Colorado (Public Service or Company) does not comport with the Settlement Agreement? What assurances does the Commission have that the Parties will not raise issues in future proceedings?

The particular language that is quoted in this question is found in the General Provisions section of the Settlement Agreement – specifically, on page 28, paragraph number 6. This phrase is intended to convey the Settling Parties' agreement that to the extent a commitment exists in the Settlement Agreement among the Settling Parties, as opposed to a commitment made by a single Party as to a specific filing principle (*e.g.*, Public Service's commitment to manage the equity component of the capital structure so that when rates become effective as a result of the 2017 Rate Case, the equity component of the actual capital structure will be lower than 56 percent[2], see response to a.ii), the Settling Parties are not to present a challenge to the portion of any proposed change in rates that results from the appropriate application of that principle. The Commission may be assured that the Settling Parties will not raise these issues in future proceedings for two reasons: (1) each Party's commitment not to do so and (2) the inherent intervenor policing that will occur in the event any of the Settling Parties violate this commitment. It is important to note that a number of these commitments were made with a specific duration in mind, as is detailed further in response to Question a.ii below. To the extent that a principle is not summarized in Table 1 or Table

[2] To the extent a commitment is made by a single Party, all other Settling Parties that have not made the commitment are free to present a challenge to the rates which will result from the application of the principle agreed to by the single Party (*e.g.*, Settling Parties other than Public Service are free to propose a capital structure for deriving Public Service's rates that is different than the capital structure proposed by Public Service in the 2017 Rate Case).

2 below, as further detailed in the Settlement Agreement, such principle may be contested in future proceedings.

ii. State and clarify which future proceedings and the specific "principles" that are to be followed.

Two tables are included below. Table 1 presents the specific principles that the Settling Parties or Public Service have agreed to apply not only to the 2017 Rate Case,[3] but to adhere to on a going forward basis in the Company's electric rate cases.

Table 1: Permanent Principles

Settlement Reference	Topic	Principle
Page 9 Section *I*.C.6(i)	Pension	A 15-year amortization of the Legacy Pre-Paid Pension Asset and inclusion of the unamortized balance of that asset in rate base.[4]
Page 23 Section *II*.C.2	Metro Ash	Public Service will not include the property as plant held for future use in any future electric rate cases.

Table 2 below, parses through the Settlement Agreement and reflects the principles the Settling Parties or Public Service agreed to adhere to in the filing and processing of the 2017 Rate Case. Through the Settlement Agreement, the Settling Parties or Public Service are not bound to the principles contained in Table 2 in any electric rate cases filed after the 2017 Rate Case.

[3] As indicated on page six of the Settlement Agreement, the 2017 Rate Case is the rate case from which it is anticipated that rates will go into effect for the Company's electric retail business no earlier than January 1, 2018.

[4] As reflected in the Settlement Agreement on page 9, the return if any on the Legacy Pre-Paid Pension Asset is not a settled permanent principle.

Table 2: Principles Agreed to be Included in the 2017 Rate Case

Settlement Reference	Topic	Principle
Page 12 Section *I*.C.7	Property Taxes	The Company will propose that any deferred tax amounts will be amortized over the same number of annual periods they were accrued.
Page 21 Section *II*.A	Depreciation and Amortization Expense	The approved changes resulting from the 2016 Depreciation Case will be reflected in the 2017 Rate Case and the Settling Parties agree not to contest the implementation of any such approved changes from the 2016 Depreciation Case in the 2017 Rate Case.
Page 22 Section *II*.B	Capital Structure	Public Service commits to manage the equity component of the capital structure so that when rates become effective as a result of the 2017 Rate Case, the equity component of the actual capital structure will be lower than 56 percent.
Page 23 Section *II*.C.1	Incentive Compensation	AIP incentive payment recovery will be capped at 15 percent of an employee's salary.
Page 23 Section *II*.C.1	Pension	Pension expense will be adjusted to reflect the removal of the pension expense impact related to employee compensation for AIP above the Company's target incentive compensation.
Page 23 Section *II*.C.3	Oil & Gas Royalty Revenue	Oil and gas royalty revenues will be shared 50/50 between customers and shareholders.
Page 24 Section *II*.C.6	Equivalent Availability Factor Performance Mechanism	The Company shall make a proposal in its 2017 Rate Case regarding the EAFPM, however the Company is free to present to continue, modify, replace or discontinue the EAFPM. The Company must present data regarding the benefits achieved of the expiring EAFPM.

b. <u>Return on Equity</u>

i. The Commission generally establishes a range of reasonableness for the authorized return on equity. What is the position of the Settling Parties regarding the establishment of such a range in this proceeding? Is 9.83 percent intended to reflect a certain point within a proposed range?

The Settling Parties did not agree to a range of reasonableness for authorized return on equity ("ROE"), but rather agreed in the Settlement Agreement to a specific

ROE level – 9.83 percent. The Settling Parties agreed to that level based on the entirety of the agreements and concessions reflected in the Settlement Agreement.

Moreover, the Settling Parties do not believe it is necessary to establish a range of ROEs in this case. While the Commission may have a recent general practice of specifying such a range, it has not always done so. For example, in the 2012 Multi-Year Plan Settlement Agreement, there was recognition of the range of ROEs that were filed by the parties (9.09 percent to 10.75 percent) and then the agreed to ROE of 10.00 percent was expressly stated.[5] In the present proceeding, the specified ROEs filed with Answer Testimony and the Company's Rebuttal Testimony range from as low as 8.7 percent to as high as 10.25 percent.

c. <u>Pre-Paid Pension Assets</u>

i. Clarify the purpose of amortizing the "Legacy Pre-Paid Pension Asset." What consequences and effects on ratepayers can be expected in amortizing this asset?

The pension expense requested at each rate case is an estimate of the annual cost of providing pension benefits to employees. Over the life of the pension plan, contributions and expenses are intended to equal each other. However, Public Service has made contributions before they are recognized as an expense, which gives rise to a prepaid pension asset.

Amortizing the Legacy Pre-Paid Pension Asset over fifteen (15) years will accelerate the repayment of the balance of the Legacy Pre-Paid Pension Asset. This has the effect, all other things being equal, of increasing customer rates during this accelerated amortization period and, all other things being equal, decreasing customer

[5] See Proceeding No. 11AL-947E Settlement Agreement filed on April 2, 2012 page 14.

rates after the balance is fully amortized. The Settling Parties believe that paying the balance down faster will lower the total overall cost to ratepayers. This situation is similar to a decision to accelerate payments on the remaining balance of a debt in order to minimize future interest rate payments and lower the total amount (principle plus interest) paid by the debtor over time.

ii. What is the effect of the Commission approving the designation of the accumulated New Pre-Paid Pension Asset as a regulatory asset or liability? Does this provision of the Settlement Agreement create an obligation on ratepayers?

The New Pre-Paid Pension Asset is being created to help provide more transparency about future pension costs that are in excess of the pension expense. If the Company makes contributions to the pension plans in excess of the annual pension expense calculated under Generally Accepted Accounting Principles ("GAAP"), these dollars would be recorded in the New Pre-Paid Pension Asset and submitted to the Commission with an explanation for why additional funding was necessary.

The Commission's approval of the provisions of the Settlement Agreement addressing the New Pre-Paid Pension Asset is not intended to provide any greater or lesser assurance that dollars will be recovered or that the asset will be included in rate base than has been the case in the past under the Commission's historical practice. In future rate cases the Commission retains full approval authority over recovery of the dollars in the New Pre-Paid Pension Asset and the inclusion of the balance of the New Pre-Paid Pension Asset in rate base. Thus, the customer rate implications of the New Pre-Paid Pension Asset will be decided by the Commission in future rate cases and nothing in this Settlement binds the Commission to reach any particular decision in those future cases.

iii. What would cause the New Pre-Paid Pension Asset to reach $50 million? Why might that level be reached prior to new rates going into effect following the 2017 Rate Case?

The pension expense used for recovery at each rate case is based on several assumptions, including the expected return on assets currently held in the pension trusts. The Settlement includes a new pension tracker that allows Public Service to track and recover pension expense costs that are greater or less than the amount estimated at each rate case. However, historically there have been large unexpected events that cause a drop in the funding status, such as the 2008 stock market correction, and led Public Service to make large cash contributions.

Growth of the New Prepaid Pension Asset to $50 million would be caused by a significant unexpected event, such as large investment losses or increases in benefit obligations. Since the pension expense calculation is slow to respond to significant unexpected events, the New Prepaid Pension asset requires Public Service to explain the events that led to large cash contributions, giving the Commission the explicit opportunity to decide the appropriate method of recovery, if any, including an amortization similar to that being implemented for the Legacy Prepaid Pension Asset.

d. <u>Property Taxes</u>

i. The Commission-approved settlement agreement in the Company's last electric rate case, Proceeding No. 11AL-947E, permitted the Company to defer projected and significant increases in property taxes. Explain how the proposed resolution of property tax expense in this proceeding addressed that deferral. Is this matter fully resolved or are there deferred amounts the Commission will need to address through future proceedings?

The settlement reached in Proceeding No. 11AL-947E, which was approved by the Commission, set a baseline to track property taxes above or below an amount of $76.7 million. In that settlement, any deferred amount at the end of each year of the settlement agreement began an amortization of three years beginning on January 1st of the immediately following year and that amortization was assumed to be included in the rates effective for that year (inclusive of the step increase).[6] To recognize the fact that this prior settlement amortization will be rolling off over the next three years, not only does the amount established in base rates in the current Settlement Agreement include a component for the ongoing tracking of property taxes, but it also contains a component for the amortization set at the 2015 amortization amount. These two baseline amounts are reflected on page 12 of the Settlement Agreement in Section *I*.C.7. Table 4 below reflects an analysis of the potential outcome and balance of the property tax tracker at the end of the current Settlement Agreement settlement period.

Table 4: Property Tax Tracker Estimated Deferred Balance[7]

	2015	2016	2017
Amortization			
Baseline	$ 27,827,992	$ 27,827,992	$ 27,827,992
Forecast	27,827,992	21,565,133	9,365,637
Delta	$ -	$ (6,262,859)	$ (18,462,355)
Annual Tax			
Baseline	$ 109,506,702	$ 109,506,702	$ 109,506,702
Forecast	118,305,159	127,277,038	133,581,262
Delta	$ 8,798,457	$ 17,770,336	$ 24,074,560
Annual Delta	$ 8,798,457	$ 11,507,477	$ 5,612,205
Tracker Balance	$ 8,798,457	$ 20,305,934	$ 25,918,139

[6] To illustrate with an example, assume the calendar year 2012 actual property tax for the Company's electric retail portion was $5 million above the baseline amount. This $5 million delta would be amortized over the next three years (2013, 2014 and 2015) at $1,666,667 per year. As a result of this arrangement, the amortizations of those deferred property taxes will continue through the end of calendar year 2017 (the 2014 delta will amortize over 2015, 2016 and 2017). Additionally, calendar year 2015 will have the greatest dollar amount of the amortization because it has a component of all three of the previous settlement amortizations included in the amortization to be booked in calendar year 2015.

[7] The forecast of the Company's electric retail portion of property taxes was provided to intervenors in response to Discovery Request CPUC49-5.

The annual amortization of the deferred amounts from the previous settlement agreement will be complete in 2017, thus the amortization of the Proceeding No. 11AL-947E accounts will be fully resolved. However, as indicated in Table 4, in the event property taxes continue to increase, as they are currently forecasted to do, the year-over-year reduction in the amortization will offset a portion of the incremental property taxes, but not all. This will result in a new property tax tracker estimated balance of $25.9 million at the end of 2017 to be resolved in the next electric rate case. Nothing in the Settlement Agreement binds the Commission to any particular decision with regard to the treatment of that balance in the next electric rate case. The only limitation in the Settlement Agreement on the Commission or the Settling Parties regarding this issue is the commitment that the Company will propose an amortization period equal to the number of annual periods over which these amounts were accrued. This issue is more fully discussed in the Settlement Agreement on pages 11 and 12 in Section *I*.C.7.

e. <u>Clean Air-Clean Jobs Act ("CACJA") Rider</u>

i. What is the basis of the $96,968,401 annual revenue requirement to be recovered through the Clean Air-Clean Jobs Act (CACJA) Rider in 2015, subject to true up in 2017? Is it a stipulated amount or was it calculated in accordance with the proposed CACJA Rider tariff sheets in Attachment L to the Settlement Agreement and reviewed by the Settling Parties?

The $96,968,401 annual revenue requirement for the 2015 CACJA Rider is calculated in accordance with the proposed CACJA Rider tariff sheets in Attachment L. Attachment No. DAB-15 has been provided to the Settling Parties and other intervenors throughout the case reflecting the derivation of these amounts. For the purposes of the settlement, 2nd Revised Attachment No. DAB-15 attached to the Rebuttal Testimony of Ms. Deborah A. Blair was updated to reflect the agreed to weighted average cost of capital at a 9.83 percent return on equity and a cost of debt of 4.67 percent. This attachment was also updated to reflect the estimated impacts of the extension of the bonus tax depreciation law that was passed on December 19, 2014. Attached to these responses to the Commissioners' questions is Settlement Attachment No. DAB-15 as Attachment A[8] reflecting the rider amount of $96,968,401.

ii. What are the projected CACJA Rider revenue requirements for 2016 and 2017? What would cause these future revenue requirements to vary from projections? Does a reduction in the 2017 CACJA Rider revenue requirement explain the decrease in monthly bill impacts in 2017 as set forth in Attachment B to the Settlement Agreement, or is there another cause for the decrease?

Attachment A reflecting the Settlement Attachment No. DAB-15 includes the estimated CACJA Rider revenue requirements for 2016 and 2017. These future revenue requirements may vary from their projections in the event in service dates move slightly or the final cost of the project is different than the amount included in this estimate. The projected reduction in the 2017 CACJA Rider revenue requirement is the entire cause of the estimated decrease in the monthly bill impacts in 2017 as presented in Attachment B to the Settlement Agreement.

iii. Are there additional CACJA-related costs that will be collected beginning with the 2017 Rate Case? What is the projected magnitude of those costs?

Yes. Costs related to the CACJA include both costs associated with incremental investments and costs associated with the retirement of legacy assets affected by the

[8] At the time of filing the Settlement Agreement, the estimated CACJA Rider amounts for calendar year 2016 and 2017 had not been updated; thus, the Settling Parties provided the customer bill impacts for these two years based upon the Company's Rebuttal Testimony filed estimated amounts for the CACJA Rider in 2016 and 2017. Since that time, the Company has updated the 2016 and 2017 estimate to account for the principles agreed to in the Settlement Agreement. Attachment A to this Joint Response to the Commissioner's Questions reflects these updated amounts. The impact on customers of these updated estimates for 2016 and 2017 is a decrease in the anticipated bill impacts of the Settlement Agreement in both 2016 and 2017. The Settling Parties intend to file a corrected version of Attachment B to the Settlement Agreement through a separate notice of filing after they have had an opportunity to review it.

approved compliance plan. The CACJA Rider recovers the first category of costs, but not the second category.

Cost recovery for the first category of costs would be shifted from the rider to base rates as a result of the 2017 Rate Case. This shift, by itself, does not represent an incremental cost to customers. But the levels of these costs will change every year. For example, the average plant balances (and perhaps the depreciation rates applied to these balances) will vary between 2017 and 2018. Consequently, the costs of incremental investments collected under the CACJA ruling in 2015, 2016 and 2017 will vary from the costs of incremental investments collected in 2018 through base rates (or any alternative recovery mechanism approved) as a result of the 2017 Rate Case. However, the difference between the 2017 and 2018 costs is expected to be relatively small.

The second category consists primarily of depreciation and amortization expenses that are currently recovered through base rates in accordance with current depreciation and amortization rates. The ongoing level of depreciation and amortization rates will be the subject of the 2016 Depreciation Case. (See the response to Question h below.) The depreciation and amortization rates established in the 2016 Depreciation Case will be used to calculate the depreciation and amortization expenses to be recovered through rates effective in 2018 as a result of the 2017 Rate Case. As explained in response to Question h, the magnitude of the costs approved for recovery in these future proceedings is uncertain. However, there will most likely be some increase in cost recovery in 2018.

iv. Under what circumstances would a Settling Party file an objection or protest in the November 1 advice letter filing? Can the tariff sheets filed under the November 1 advice letter be set for hearing and suspended, including under the terms of the proposed CACJA tariff sheets?

While a person affected by a tariff change with regard to the amount of the CACJA Rider may submit a written protest or objection to the proposed change under Rule 1210,[9] because this recovery mechanism has a proposed procedure for prudency review and a subsequent true-up, for the Settling Parties any such objection or protest to the November 1 Advice Letter filing should be limited to mathematical calculation issues or obvious inclusion of non-qualifying costs.

The CACJA Rider process includes a November annual filing supporting the forecasted revenue requirement to be recovered the following calendar year, an April annual filing reporting CACJA expenditures and comparing forecasted costs versus actual incurred costs, and a true-up provision for any over- and under-recovery of CACJA costs. Affected parties may object to the April annual filing and request a hearing. If such a request for hearing is filed, the Commission would set the April filing for a prudency review hearing.

The Settlement Agreement does not expressly limit what objection or protests a person who is not a Settling Party may make to the November 1 advice letter filing. The Commission retains full discretion as to whether to suspend and set the November 1 advice letter filing for hearing under § 40-6-111(1)(a), C.R.S.

[9] Rule 1210(a)(VII), 4 *Code Colo. Regs.* 723-1, provides: “Any person affected by a tariff change proposed under this rule may submit a written protest to the proposed change. Any protest must be filed sufficiently in advance of the effective date to permit Commission consideration before the tariff becomes effective, generally at least ten days before the effective date of the proposed tariff.”

v. Do the Settling Parties agree that the purpose of the April 15 CACJA Rider reports is to initiate a prudency review, similar to what is done for the Pipeline Safety Integrity Adjustment (PSIA)? What is the scope of such prudency review? In other words, could a party argue that certain costs are not demonstrably tied to specific CACJA Projects for which the Commission has already issued a certificate of public convenience and necessity (CPCN) and should not have been recovered from ratepayers through the CACJA Rider?

To put the difference between the November and April filings into context, the Commission determined recently in Proceeding No. 13M-0915G addressing the Company's last November annual PSIA tariff filing, that the November advice letter and tariff filings "are intended to go into effect without hearing, absent extraordinary circumstances." Decision No. C14-1439,(¶13.) As a consequence, the Settling Parties expectation is that most issues pertaining to CACJA cost recovery will be addressed in the April filing.

The Settling Parties believe that the April filing will serve at least four purposes. First, the April 1 CACJA Rider filing will provide a detailed review of the previous year's actual CACJA expenditures by project and a comparison of these costs with the forecasted costs that were used to calculate the previous year's CACJA rider amount.

Second, as the question recognizes, to be eligible for recovery under the CACJA rider, incurred costs must be "demonstrably tied to specific CACJA Projects, for which the Company already has a CPCN from the Commission." The April filing will give parties an opportunity to assure that requirements of the Settlement Agreement are met, and to make arguments that costs proposed for recovery are not tied to CACJA projects, or otherwise not consistent with the requirements included in Attachment C to the Settlement Agreement.

Third, the Settlement Agreement requires that "[n]o cost item associated with any CACJA Project will be used to derive both the CACJA rider and base rates that would be in effect during the same given time period." The Company will provide information to demonstrate compliance with that requirement in the April filing.

Fourth, the Settlement Agreement provides that the Company will "provide detailed cost information on an individual project basis" for CACJA Projects eligible for rider recovery – that is, those that went or are to go into service between August 1, 2014 and December 31, 2017. As the Settlement Agreement provides, this information will include "robust direct testimony justifying expenditures as set out in Decision Nos. C12-0163 and C12-0159". It will provide information that enables the Commission and interested parties to assess the reasonableness and prudence of CACJA project costs in the manner contemplated by those orders.

The April 1 filing will also include but not be limited to an overview that provides a summary of the previous year's CACJA costs and variances from the forecasted costs used to establish the CACJA Rider rates. The overview will include tables that summarize the following data:

1) Capital expenditures, forecasted versus actual for each of the CACJA projects;
2) Average plant in-service, forecasted versus actual for each of the CACJA projects;
3) Capital costs, forecasted versus actual for each of the CACJA projects;
4) Non-Fuel O&M expenses, forecasted versus actual for each of the CACJA projects;

5) Total revenue requirement, forecasted versus actual for each of the CACJA projects.

vi. Are the Settling Parties assuming the use of provisions similar to those used for implementing the Company's PSIA as established in Proceeding Nos. 10AL-963G and 13M-0951G to apply for the CACJA Rider? If so, which of these provisions do the Settling Parties propose the Commission adopt?

Yes, in part. As discussed in response to Question e, subparts iv to vi, certain elements of the PSIA process, adopted by the Commission in Proceeding No. 13M-0915G, will work well for the CACJA Rider process under the Settlement Agreement. The CACJA filings are intended to provide interested parties with detailed information to evaluate the costs that are being included in the rider and to evaluate the prudency of project costs. However, the PSIA filing requirements are gas industry specific and would not be applicable to the CACJA Rider filings. In response to the previous questions, the Settling Parties have presented a summarization of the information to be supplied in the CACJA filings and the process from the PSIA that should apply to the CACJA filings.

f. <u>Transmission Cost Adjustment</u>

What is the basis of the $15,610,346 annual revenue requirement to be recovered through the Transmission Cost Adjustment (TCA) in 2015? Is it a stipulated amount or was it calculated in accordance with the proposed TCA tariff sheets in Attachment L to the Settlement Agreement and reviewed by the Settling Parties?

The $15,610,346 annual revenue requirement to be recovered through the TCA effective concurrent with the implementation of rates from this proceeding is calculated in accordance with the proposed TCA Rider tariff sheets in Attachment L to the Settlement Agreement. For the purposes of the settlement, Attachment No. DAB-16 attached to the Direct Testimony of Ms. Deborah A. Blair was updated to incorporate the proposed changes to the TCA tariff, and the terms included in the Settlement Agreement, including: 1) the projected net transmission plant was based on the thirteen month average balances for the year in which the TCA will be in effect (2015); 2) the baseline is the year-end December 31, 2013 plant in service balances; and 3) the capital structure is based on the agreed-to weighted average cost of capital at a 9.83 percent return on equity and a cost of debt of 4.67 percent. Attached to these responses to the Commissioners questions is [Settlement Attachment No. DAB-16] as Attachment B reflecting the TCA rider amount of $15,610,346.

g. <u>Earnings Test</u>

i. Clarify the purpose of the Earnings Test. Given the terms of the Settlement Agreement, what factors do the Settling Parties see as potentially contributing to overearnings in the next three years (2015, 2016, and 2017)?

The purpose of the Earnings Test is to protect customers through a sharing of earnings in the event sales volumes grow or other factors that would positively affect Public Service's return on equity occur, including but not limited to reductions in costs. The Settling Parties collectively did not agree to or contemplate any specific factors that potentially could contribute to overearnings in the next three years.

ii. On page 6 of the Settlement Agreement, the Settling Parties state that the agreed-to rates will be subject to an Earnings Test and Stay-Out provision, remaining in effect until replaced by new base rates resulting from Public Service's next base rate change filing in 2017 for rates expected to go into effect no earlier than January 1, 2018. By entering into the Settlement Agreement, is Public Service agreeing to file a 2017 Rate Case?

Yes. One of the statutory requirements of the CACJA is that if an automatically adjusting recovery mechanism were put in place to recover CACJA related costs, the Company would be required to file a base rate case every two years from the date the mechanism became effective. Therefore, the Company will need to file a rate case in calendar year 2017.

h. <u>Depreciation and Decommissioning</u>

What are the approximate costs being deferred to the 2017 Rate Case associated with the decommissioning, dismantling, remediation, and restoration of the nine generation units recently or expected to be retired?

In its Direct Testimony in this proceeding, the Company proposed an increase in depreciation and amortization expense of about $4.7 million (from the current level of about $21.25 million to about $25.92 million) attributable to the twelve generating units that are either already retired or are planned to be retired soon ”nine Retired” and “three Early Retiring” units). The Settling Parties ultimately agreed that the Company would not change its current depreciation rates applied to electric and common utility plant for ratemaking and accounting purposes. Because the Company's proposed rates incorporated both the reserve reallocation and four-year amortization period, it is not possible to determine in isolation the amount of decommissioning costs for these twelve Retired and Retiring Generating Units that would have been recovered if the Company's proposal had been approved as filed. From an accounting perspective the Company will not recognize and defer in 2015, 2016 or 2017 the difference between the annual expense resulting from the depreciation and amortization rates established in the Settlement Agreement and the depreciation and amortization expense the Company proposed in its Direct case in this proceeding.

However, in the 2016 Depreciation Case the Company will be allowed to revisit the need to collect unrecovered life and net salvage expenses associated with the twelve Retired and Retiring Generating Units beginning January 1, 2018. The annual change in depreciation and amortization expense that will result from the application of the results of the 2016 Depreciation Case is unknown. But even if the exact change cannot be determined at this time, it is important to recognize two important impacts from the delay in the change of the depreciation rates.

First, the change in annual depreciation and amortization expense resulting from the change in depreciation rates approved in the 2016 Depreciation Case will almost certainly be different from the annual increase of $4.7 million that the Company proposed in its Direct case in this proceeding. The primary drivers of this variance will be any approved updates to life and net salvage expenses from the levels the Company proposed in its Direct case in this proceeding; any differences between the approved reserve reallocations and the reserve reallocations the Company proposed in its Direct case in this proceeding; and any differences between the approved amortization period(s) for the costs associated with the twelve Retired and Retiring Generating Units and the amortization period the Company proposed in its Direct case in this proceeding.

Second, regardless of the level of the annual depreciation and amortization expense change resulting from the application of the 2016 Depreciation Case rates, the cost-recovery period for the twelve Retired and Retiring Generating Units will almost certainly extend beyond the recovery period that the Company proposed in its Direct case in this proceeding. The Company's proposal in its Direct case would have completed this recovery by the end of 2018 or very shortly thereafter. Since the change in depreciation and amortization expense attributable to the twelve Retired and Retiring Generating Units will likely now be deferred until no earlier than January 1, 2018, it is very unlikely that Public Service will propose to recover those costs by the end of 2018.

Consequently, cost recovery for the twelve Retired and Retiring Generating Units will likely extend beyond 2018. In this sense, cost recovery for the twelve units will be delayed or deferred until the period covered by the 2017 Rate Proceeding (beginning January 1, 2018) -- and perhaps beyond that period.

i. <u>Ponnequin Wind Farm</u>

i. What Commission finding is Public Service seeking in this proceeding concerning the need to obtain a CPCN for the retirement of Ponnequin? Are there Settling Parties requesting a determination that retirement of Ponnequin is the "ordinary course of business"?

In this proceeding, Public Service did not request any determinations regarding the need for a CPCN to retire the Ponnequin Wind Farm. Rather, the Company, through the testimony of Mr. Mark Fox, noted its intention to retire Ponnequin at the end of 2015 (Fox Direct Testimony at page 15), and the Company's cost of service as presented by Ms. Deborah A. Blair reflected a number of adjustments to account for this retirement. (Blair Direct Testimony, Schedule 26). That led OCC witness Mr. Neil to take the position that:

> [c]osts in the rate case should not be adjusted for the retirement of the Ponnequin Wind Farm because Public Service has not yet received a [CPCN] to retire Ponnequin. It is my understanding that Public Service may be required to obtain a CPCN to retire Ponnequin before these rate case adjustments are made. The OCC may want to argue that Ponnequin should not be retired." (Neil Answer Testimony at 31).

In response to Mr. Neil's testimony, Ms. Alice K. Jackson in her Rebuttal Testimony (at pages 125-126) explained why the retirement of the Ponnequin Wind Farm should be deemed to be in the ordinary course of business, and therefore not require a CPCN:

Rule 3103(a) states the following:

> A utility seeking authority to do the following shall file an application pursuant to this rule: amend a certificate of public convenience and necessity in order to extend, to restrict, to curtail, or to abandon or to discontinue without equivalent replacement any service, service area, or facility. A utility shall not extend, restrict, curtail, or abandon or discontinue without equivalent replacement, any service, service area, or facility not in the ordinary course of business without authority from the Commission. [emphasis added]

Given the new resources coming onto our system (both wind and non-wind) – more than an equivalent replacement – and the age and condition of Ponnequin – it is at the end of its useful life for the Company and its customers – we believe the retirement of Ponnequin should be deemed in the ordinary course of business and therefore not require a CPCN. Of course, if the Commission agrees with Mr. Neil, we will file a separate application to seek the Commission's authorization to retire Ponnequin.

In Section *I*.C.5 of the Settlement Agreement, the Settling Parties have agreed that no Settling Party would assert that a CPCN is required for the retirement of Ponnequin. Although Public Service did not request such a determination in this case, given that the issue of the need for a CPCN has been raised in this proceeding and addressed in the Settlement Agreement, the Settling Parties believe it would be appropriate for the Commission to make a ruling that no CPCN is required for the facility.

ii. Is it correct to read the Settlement Agreement to indicate that no settling party opposes the retirement of Ponnequin in the event a CPCN is required and that the costs of Ponnequin will not be included in any future rate case?

Although not explicit, the Settling Parties believe it is implicit that none of the Settling Parties will oppose the retirement of Ponnequin in the event that the

Commission nonetheless determines that a CPCN is first required. This follows from the provision in the Settlement Agreement that "[t]he Settling Parties accept Public Service's proposed retirement of the Ponnequin Wind Farm".

Given that the costs of the Ponnequin Wind Farm are recovered through the Renewable Energy Standard Adjustment ("RESA") and not base rates, no capital or operating costs for the unit will be reflected in future rate cases.

j. <u>Equivalent Availability Factor Performance Mechanism ("EAFPM")</u>

What is the regulatory process for the report filing to be made April 1 of each year concerning the Equivalent Availability Factor results for the preceding year? For instance, will these be expedited or standard application proceedings?

As outlined in Attachment G (which is the Electric Commodity Adjustment Tariff) of the Settlement Agreement, the Company will file on or before April 1 of each year, 2016, 2017 and 2018, a report detailing the results of the EAFPM for the previous calendar year. The Company will file an Application along with the report requesting Commission approval of either the penalty, incentive or neither (if the EAFPM falls within a certain range, the Company will neither earn an incentive nor be assessed a penalty) as applicable. The Application requesting Commission approval of the incentive, penalty or neither will follow the Commission's standard application process to allow Commission Staff and other interested parties time to review the Company's EAFPM Report. The Company will not flow the incentive or penalty through the ECA mechanism until it receives a final Commission Decision on the Application.

Dated this 11th day of February, 2015.

Respectfully Submitted,

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