

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

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**IN THE MATTER OF PUBLIC SERVICE)
COMPANY OF COLORADO FOR)
APPROVAL OF ITS 2021-2023) PROCEEDING NO. 20A-0204E
TRANSPORTATION)
ELECTRIFICATION PLAN)**

**POST-HEARING STATEMENT OF POSITION OF
PUBLIC SERVICE COMPANY OF COLORADO**

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I. INTRODUCTION AND EXECUTIVE SUMMARY

The State of Colorado is focused on a low carbon future in order to provide public health, economic, and environmental benefits to all residents. The path to achieving this future includes an increased focus on extensive electrification in the transportation sector. In 2017, the State enacted a series of legislation and executive orders, designed to support greater electric vehicle (“EV”) adoption, including (1) tax credits for new EV purchases as well as adoption of a zero-emission vehicle standard; (2) dedication of Volkswagen settlement funds to charging infrastructure and zero emission buses, shuttles, and trucks; and (3) an Executive Order requiring the development of a statewide EV plan. Colorado’s first EV plan in 2018 set an ambitious target of 940,000 EVs on Colorado roads by 2030, which the State reaffirmed in April 2020. Transportation electrification is key to achieving Colorado’s similarly aggressive greenhouse gas (“GHG”) reduction targets to address climate change. House Bill 19-1261 established economy-wide GHG reduction goals of 26 percent by 2025, 50 percent by 2030, and 90 percent by 2050.

In May 2019, the Colorado legislature enacted Senate Bill 19-077 (“SB 19-077”), recognizing the central role of public utilities in meeting the state’s EV and GHG goals. SB 19-077 directed every electric public utility to file with the Commission by May 15, 2020 “an application for a program for regulated activities to support widespread transportation electrification” within their service territory.¹ SB 19-077 requires utilities to develop a comprehensive three-year plan, and it contemplates wide latitude for the utilities and Commission regarding the programs and activities that can comprise a Transportation Electrification Plan (“TEP”). The activities that the Commission “may” authorize under this statute include:

- Investments or incentives to facilitate the deployment of customer-owned or utility-owned charging infrastructure, including charging facilities, make-ready infrastructure, and associated electrical equipment that support transportation electrification;

¹ C.R.S. § 40-5-107.

- Investments or incentives to facilitate the electrification of public transit and other vehicle fleets;
- Rate designs, or programs that encourage vehicle charging that supports the operation of the electric grid; and
- Customer education, outreach, and incentive programs that increase awareness of the programs and of the benefits of transportation electrification and encourage greater adoption of EVs.²

As evidenced by this language, the legislature intended for TEPs to be comprehensive and multi-faceted to advance utility-led initiatives in achieving the state’s broader EV and climate policy goals. And with each of these legislative and other policy developments, Colorado is aiming to be a leader and national model for vehicle electrification and GHG emissions reduction.

On May 15, 2020, Public Service filed its first TEP, intending to advance these state policy goals through a suite of carefully-designed electrification programs across five different portfolios: (1) Residential; (2) Commercial; (3) Multi-Unit Dwellings, now known as Multifamily Housing (“MFH”); (4) Advisory Services; and (5) Research, Innovation, and Partnerships (“RIP”). These programs range from rebates to defray the upfront cost of installing EV charging to a bundled charging service where the Company will install, own, and maintain the charging station for an established monthly fee. The TEP also includes a limited number of public fast charging stations that will serve areas not currently being adequately served by the private market. Each of these programs is designed to address primary challenges currently limiting greater EV adoption in the State, which include upfront costs of charging infrastructure and EVs, lack of information and awareness regarding EVs, and suboptimal incentives for off-peak charging. They are also designed to ensure that there is equitable access for income-qualified customers so that they can also benefit from transportation electrification.

² C.R.S. § 40-5-107(1)(b).

In this proceeding, the Commission is charged with evaluating whether to approve this proposed TEP and the associated cost recovery requests based on criteria outlined in SB 19-077.³ Specifically, C.R.S. § 40-5-107(2) sets forth the factors the Commission shall consider when evaluating TEP investments and other expenditures.

As the first TEP being evaluated in Colorado, this proceeding drew interventions from 17 parties, each representing a unique perspective. The Answer Testimony submitted by these parties showed broad consensus, with some exceptions, supporting the Company's robust TEP. Indeed, prior to the evidentiary hearing, Public Service was able to reach a partial Settlement Agreement – entered into the record as a stipulated agreement (“Agreement”) – with the “Settling Parties”⁴ representing a wide range of consumer, industry, environmental, municipal, and EV market interests. This Agreement is a thoughtful, negotiated compromise of these parties on the key issues of: (1) equity aspects of the TEP; (2) presumption of prudence; (3) statutory retail rate impact cap (or “Cap”); (4) utility ownership of EV supply infrastructure (“EVSI”); (5) amortization of TEP rebates; and (6) rider recovery.⁵ While adopted as a stipulation rather than a settlement, the terms of this Agreement are in the public interest and consistent with statutory considerations, and consequently merit adoption by the Commission as part of its final decision.

Likewise, the remainder of Public Service's TEP is also reasonable and appropriately ambitious to achieve state policy goals, and should be approved. The cost of the Company's TEP is less than what it could be if contested proposals by parties such as the Environmental Organizations (“EOs”) and the Colorado Energy Office (“CEO”) were adopted, but more robust

³ C.R.S. § 40-5-107.

⁴ The “Settling Parties” are as defined in the Agreement. Public Service acknowledges that the Commission accepted the Agreement into the record as a stipulation, rather than a settlement, and uses the terms specifically defined in the Agreement solely to avoid confusion.

⁵ Hrg. Ex. 115 (Agreement).

than Commission Trial Staff (“Staff”) and the Colorado Office of Consumer Counsel (“OCC”) suggest. Further, throughout the proceeding, Public Service received and accepted feedback from other parties recommending modifications to the TEP. Public Service carefully reviewed each of these proposals and modified its initial plan in several areas, notably offering an EV rebate, expanded program eligibility for Primary General customers, enhanced grid optimization efforts, and increased focus on promoting equity. Public Service’s overall proposed TEP, reflecting negotiated resolutions and Public Service’s adjustments responsive to parties’ feedback, is reflected in Attachment 1 to this Statement of Position (“SOP”). As a result, the TEP is more robust and proactive while being less expensive than some parties’ additional proposals, yet more robust than others, and complies with the Cap. In other words, it maximizes benefits while minimizing costs.

The TEP presented by Public Service in Rebuttal has broad support amongst the parties, representing a wide variety of interests. Nonetheless, Staff and OCC objected to multiple core components of the plan and recommended alternative proposals. Many of these recommendations would severely limit the TEP’s ability to meet state policy goals – directly or indirectly. These recommendations include significantly curtailing the overall TEP budget through alternative interpretations of the Cap under C.R.S. § 40-1-103.3(6); a proposal to require rebates to be expensed as operations & maintenance (“O&M”), thereby limiting the use of such rebates; the rejection of the Company’s proposed EVSI program; and the rejection of reasonable and appropriate cost recovery mechanisms, such as a rider cost recovery mechanism enabled by SB 19-077. Each of these changes, if accepted, would materially increase the risks and decrease the incentives for Public Service to take on TEP investments, as Staff’s and OCC’s proposals deliberately delay cost recovery or authorized investments, put recovery of investments at risk altogether, or both.

Staff acknowledges that several “regulatory activities,” including utility ownership of EVSI, rider recovery, and earning a return on rebates, are expressly permitted under SB 19-077 – but Staff nonetheless urges rejection of every single one of these “regulatory activities” on the basis that the statute uses the permissive term “may” rather than “shall.”⁶ While Public Service agrees with the basic proposition that “may” does not mean “shall,” the legislature would not have taken the time to outline each of these permitted activities if it wished for each to be rejected in formulating a final TEP. Staff also takes liberties with other portions of SB 19-077 by adding words into the law and argues against treatment – like weighted average cost of capital (“WACC”) returns – that are explicitly contemplated in the statute. Moreover, Staff admitted they gave no consideration to financial incentives to the utility – while acknowledging that utility incentives are expressly called out in SB 19-077 as necessary to promote vehicle electrification.⁷

Likewise, OCC advanced several recommendations, including an interpretation of the retail rate cap that would result in the lowest TEP spending cap – 65 percent lower than the Company’s calculation.⁸ OCC’s interpretation of the Cap is not only inconsistent with the statutory language but is also inconsistent with the level of utility investment needed to meaningfully advance transportation electrification in the state for this and future TEPs. Although OCC was generally supportive of Public Service’s TEP, OCC’s witness also stated that he believes the state’s goals are “wishful thinking.”⁹ While this admission sheds light on OCC’s actual position and conservative approach, it underscores that OCC’s scope-reduction proposals should not guide the Commission’s thinking. Public Service and the Commission have the obligation to carry out state law and policy without regard to whether OCC considers it “wishful.”

⁶ Hrg. Ex. 300 at 18-19 (Haglund Answer).

⁷ Hrg. Tr. at 174:1-182:13 (Nov. 18, 2020).

⁸ Hrg. Ex. 108 at 24 (Wishart Rebuttal).

⁹ Hrg. Tr. 375:8-16 (Nov. 23, 2020).

Whether or not the state's ambitious EV and climate goals are met will depend on decisions made now to endorse the necessary programs, like this TEP, that support these goals and the future envisioned by Colorado's leaders. To that end, the Company respectfully requests that the Commission approve its TEP, as modified in Rebuttal Testimony and by the Agreement, and summarized by program in Attachment 1.

Finally, Public Service notes that given the breadth of the proposed TEP and multiple parties' positions, it is difficult to address every aspect of the TEP even in 40 pages of an SOP.¹⁰ Public Service therefore focuses this SOP on the key contested issues. To further assist the Commission with its deliberations, Attachment 2 to this SOP is a matrix of Public Service's proposals that will likely require Commission decision.

II. STIPULATION/SETTLEMENT AGREEMENT ISSUES

Given the extensive scope of the Company's TEP and the complexity of issues in this proceeding, Public Service and the Settling Parties reached the Agreement on certain key issues.¹¹ While the Settling Parties were not able to reach agreement on all issues in this proceeding, the Agreement demonstrates that there is broad support for many key elements of the Company's TEP by a diverse group of stakeholders representing a variety of customer and stakeholder interests.

During the evidentiary hearing, the Commission accepted the Agreement as a stipulation under Rule 1407 while reserving the right to approve it as part of the Commission's final order.¹² The following sections of this SOP discuss the key terms of the Agreement and provide further

¹⁰ Of note, the merit of two of the five portfolios – the Commercial portfolio (apart from Company-owned DCFC stations) and the Advisory Services portfolio – were not contested by parties to this proceeding and therefore are not addressed here. Conversely, the Company's decision to focus this SOP on key contested issues should not be taken as acquiescence on any issue it contested in testimony or the evidentiary hearing that was not resolved by the Agreement or express acquiescence.

¹¹ Hrg. Ex. 115 (Agreement).

¹² Hrg. Tr. at 53:10-22; 56:25-57:3 (Nov. 13, 2020).

support as to why the Agreement as a whole is in the public interest, is necessary to ensure a robust TEP that meets the state’s EV and GHG policy goals, and should be approved by the Commission.

A. Equity Issues

Equity and the issue of access to transportation electrification for income-qualified customers is a focus of both the legislation and the Company’s proposed TEP.¹³

1. Equity-Focused Program Elements

The Settling Parties’ Agreement addresses several matters aligned with SB 19-077’s equity mandate: (1) A specific portion of the overall budget and specific programmatic budgets will be committed to equity-focused programs; (2) The eligibility criteria for income-qualified customers is greatly expanded; (3) The Settling Parties agreed to quarterly stakeholder meetings on equity-focused topics; (4) Identifies a methodology for identifying higher emissions communities; and (5) Provides for a compliance filing reflecting the Commission-approved TEP and equity-focused language. To the Company’s knowledge, these issues are essentially uncontested by non-Settling Parties (although some request additional provisions).

2. Equity Performance Incentive Mechanism (“PIM”)

The Agreement also addresses the Company’s PIM proposals.¹⁴ It expresses support for the concept of an equity PIM, versions of which were advocated by several parties, to reduce barriers and increase access to transportation electrification for income-qualified customers, income-qualified communities, and higher-emissions communities. Aligned with this agreement, Public Service recommends approval of its Equity PIM discussed in Rebuttal, replacing the Cost Efficiency PIM proposed in Direct. Further, in response to the parties’ feedback and as part of the

¹³ Hrg. Ex. 101 at 59-64 (Ihle Direct).

¹⁴ Hrg. Ex. 115 at 10 (Agreement).

Agreement, the Company agreed to rescind its Customer Experience PIM. There is no consensus around any other PIMs at this time.

B. Residential Rebates

The Agreement also supports the Company's residential wiring and charging rebate dollar amounts, including income-qualified levels,¹⁵ which were largely uncontested. Through negotiation, the Settling Parties also agreed that customers receiving these rebates must participate in charging optimization for at least one year, with an opt-out for income-qualified customers.¹⁶

C. Multifamily Housing EV Pricing

The Settling Parties agreed that with respect to electricity pricing for EV drivers, the Company will condition participation in the MFH Shared Parking programs on agreement by site hosts to pass on time-varying price signals or, in the alternative, to report on their pricing, as set forth in more detail in the Agreement.¹⁷ This provision benefits the public interest by maximizing the financial incentives and grid efficiencies of EV charging.

D. Research, Innovation, and Partnerships Portfolio

The Agreement demonstrates support for the RIP portfolio, which allows the Company to identify innovative pilots and projects to stakeholders on a collaborative basis, and provides for testing new technologies and approaches that may inform future TEPs.¹⁸ It explicitly provides that at least 30 percent of the RIP Portfolio budget, as approved by the Commission, will be dedicated to support income-qualified customers and communities and higher-emissions communities.¹⁹

¹⁵ Hrg. Ex. 115 at 10-11 (Agreement).

¹⁶ Hrg. Ex. 115 at 11 (Agreement).

¹⁷ Hrg. Ex. 115 at 11 (Agreement).

¹⁸ Hrg. Ex. 115 at 11 (Agreement); Hrg. Ex. 106 at 32-37 (Schwain Rebuttal).

¹⁹ Hrg. Ex. 115 at 6-7 (Agreement); *see also* Hrg. Ex. 106 at 33 (Schwain Rebuttal).

E. Presumption of Prudence

The Agreement also contemplates a presumption of prudence for Public Service's actual TEP expenditures.²⁰ It is important to be clear what this means: The rebuttable presumption for the three-year plan would be limited to (1) the need for the components of the TEP as ultimately approved by the Commission; and (2) the overall scope/cost of the program presented in this case, including Public Service's proposed budget flexibility, as approved by the Commission. Conversely, the Company is not seeking any advance presumption that the TEP is being executed prudently. As with all rider projects, the Commission will assess that question in a cost recovery proceeding.²¹ The rebuttable presumption can also be rebutted by evidence, and any actual expenditure that the Commission deems imprudently incurred would not be recoverable.²² Finally, the Company would have the burden to demonstrate that any incurred costs above those with the requested presumption were prudently incurred.

Given these parameters, a presumption of prudence for TEP costs is in the public interest because the legislature has mandated that utilities propose a TEP and that the Commission review it and associated budgets from the outset.²³ A presumption of prudence provides Public Service, stakeholders, and customers a reasonable level of confidence that they can move forward with the mandated TEP and approved programs. The presumption also incentivizes the Company to avoid exceeding identified cost levels.²⁴ Finally, it provides an important benchmark by which to compare actual costs in a future cost recovery proceeding. Absent such a presumption, parties would need to start from scratch to evaluate the reasonableness and prudence of actual TEP costs.

²⁰ Hrg. Ex. 105 at 16; 57 (Ihle Rebuttal).

²¹ Likewise, the Company expects the TEP costs to be rolled into base rates over time, providing additional opportunities for parties' review of costs.

²² Hrg. Ex. 105 at 57 (Ihle Rebuttal).

²³ See Hrg. Ex. 109 (SB 19-077).

²⁴ Hrg. Ex. 105 at 57-58 (Ihle Rebuttal).

Despite the broad support of the Settling Parties, Staff opposes any prudence presumption on the grounds that: (1) the presumption of prudence is based on a forecasted revenue requirement and (2) the Company has requested budget flexibility of up to 125 percent.²⁵

To Staff's first concern, there is nothing unusual about a presumption of prudence related to need and scope of a program based on forecasted costs.²⁶ This is because any presumption of prudence is necessarily granted prior to actual costs being known. Any difference between the forecasted and actual costs will be addressed in the annual rider true-up.²⁷ And because the presumption of prudence does not extend to whether a program was implemented prudently, Public Service will bear the burden to justify that costs were incurred in a reasonable and prudent manner.

To Staff's second concern, budget flexibility (discussed later in this SOP) is needed to allow the Company to manage its initial TEP and meet customer demand for particular programs as they arise. As with any new program, particularly one involving a developing and complex ecosystem such as electric transportation and mobility, it is difficult to precisely predict customer participation, which will in turn drive costs. Budget flexibility will enable Public Service to be agile between the multiple TEP components, meeting customer demand or needs where they may arise, and adjusting for where they don't. This budget flexibility is also consistent with the Commission-approved process for Company DSM plans, which face similar uncertainty around customer demand.²⁸ In sum, the requested presumption of prudence for the TEP is in the public

²⁵ Hrg. Ex. 301 at 45-57 (Sigalla Answer); Hrg. Ex. 105 at Attachment JW1-4 (Ihle Rebuttal) (Staff's Response to Discovery Request PSCo1-16).

²⁶ See Proceeding No. 17A-0462EG, Decision No. C18-0417 at ¶¶ 38 and 97 (mailed date June 6, 2018); see also Proceeding No. 17A-0462EG, Decision No. C18-0743, ¶ 26 (mailed date Sept. 7, 2018) (clarifying that the budget approved in Section I of Decision No. C18-0417 is only for electric energy efficiency and not for demand response).

²⁷ Hrg. Ex. 105 at 58 (Ihle Rebuttal).

²⁸ Proceeding No. 18A-0606EG, Decision No. R19-0229 at ¶ 42 (mailed date Mar. 8, 2019).

interest as it clarifies that the decisions in this proceeding will be revisited after TEP investments are made, while also providing the necessary budget flexibility.

F. Statutory Retail Rate Impact Cap

The Settling Parties also support the Cap methodology set forth in the Company’s Rebuttal, and which aligns with SB 19-077. Specifically, C.R.S. § 40-1-103.3(6) provides that the “retail rate impact from the development of electric vehicle infrastructure must not exceed one-half of one percent of the total annual revenue requirements of the utility” and that, in evaluating the retail rate impact, the “[C]ommission shall consider revenues from electric vehicles in the utility’s service territory.”²⁹ Unlike non-settling parties’ positions, this agreed interpretation does not read words into or out of this language.³⁰ Public Service also utilizes the common, well-understood meanings of “total annual revenue requirements of the utility” and “retail rate impact.”³¹

To demonstrate compliance with this statute, Public Service provided the following Rebuttal retail rate impact analysis:³²

Table SWW-R-1-Updated SB 19-077 Retail Rate Impact

	2021	2022	2023
Revenue from EV Charging	(\$24,303,013)	(\$38,789,022)	(\$57,976,355)
+ Cost to Serve EV Charging	\$5,706,195	\$9,144,388	\$15,191,135
= Net Revenue from EV Charging	(\$18,596,818)	(\$29,644,634)	(\$42,785,220)
+ TEP Revenue Requirement	\$10,573,445	\$17,748,660	\$22,982,357
= Retail Rate Impact	(\$8,023,373)	(\$11,895,974)	(\$19,802,863)
÷ Approximate Total Retail Revenues	\$2,905,533,410	\$2,963,644,079	\$3,022,916,960
= Retail Rate Impact - Percentage	-0.3%	-0.4%	-0.7%

²⁹ C.R.S. § 40-1-103.3(6).

³⁰ It was noted at the evidentiary hearing that some sponsors of SB 19-077 filed a public comment supporting Staff’s interpretation of the Cap. This is not particularly meaningful, however, because (1) another bill sponsor submitted public comment supporting the TEP and its Cap; (2) individual bill sponsors do not speak for the entire Colorado General Assembly and Governor who together enacted the legislation; and (3) public comments (on either side of the issue) are not to be considered evidence in the proceeding. See CPUC Rule of Practice 1509(a).

³¹ Hrg. Ex. 108 at 14-18, 23-24 (Wishart Rebuttal).

³² Hrg. Ex. 108 at 22 (Wishart Rebuttal).

While the statute allows retail rates to be increased by up to 0.5 percent of total retail revenue, this analysis shows that factoring in EV revenues results in *downward pressure on customer rates, ranging from -0.3 percent to -0.7 percent.*³³ Thus, the Company’s proposed TEP is well under the Cap.³⁴ While this potential outcome is great news for customers, and speaks well to the merits of utility participation in the EV market, it is still crucial for the Company to have a rider to avoid the cost recovery disincentive that would arise without it – particularly because the revenue decoupling mechanism (“RDM”) returns certain revenues to customers outside a rate case, and in light of the mandate to undertake the TEP and the need for robust investments to meet State goals. Conversely, Staff’s, Colorado Energy Consumers’ (“CEC”), and OCC’s Cap methodologies do not conform to statutory directives and would require scaling back the TEP to ensure Cap compliance.³⁵

1. Staff’s Cap Approach is Unworkable and Underestimates EV Revenues

Staff makes several Cap recommendations. Public Service agreed with two,³⁶ but several should be rejected as contrary to the legislation, its underlying intent, and the Agreement. First, Staff recommends that the Commission rely on actual expenditures and actual EV revenues (i.e., historical data) to retroactively evaluate the Company’s compliance with the Cap in the context of a Phase I rate case.³⁷ Staff goes further, recommending a disallowance if retail rate impacts exceed the Cap retroactively, due to the failure of EV charging revenues to materialize as expected (again, urging the Commission to make such determinations after intractable investments are made).³⁸

³³ Hrg. Ex. 108 at 22 (Wishart Rebuttal).

³⁴ The CEO recommended excluding costs unrelated to “distribution system investments” from the Cap calculation. Public Service agrees that this is arguably consistent with the statute, but including these costs is more conservative. Hrg. Ex. 108 at 19-20 (Wishart Rebuttal).

³⁵ Hrg. Ex. 108 at 24-25 (Wishart Rebuttal).

³⁶ Public Service agrees that “total annual revenue requirements of the utility” includes rider revenue, and that EV charging revenues offset TEP expenditures for the purposes of the Cap. Hrg. Ex. 108 at 14, 18 (Wishart Rebuttal).

³⁷ Hrg. Ex. 300 at 30 (Haglund Answer).

³⁸ Hrg. Ex. 300 at 30 (Haglund Answer).

However, this recommendation is contrary to the goal of the TEP, as outlined by several key principles acknowledged by Staff. Specifically:

- 1) The TEP is, by definition, a forward-looking *plan*, meaning that a backward-looking Cap for forward-looking costs violates the matching principle;³⁹
- 2) Staff's proposed retrospective determination of Cap compliance would put the Company at risk for not recovering TEP investments⁴⁰ – particularly since the TEP is a new concept intended to drive a diverse and nascent market.
- 3) Actual historical data is unlikely to be available when the Company must start implementing the TEP,⁴¹ making compliance with the Cap no less certain; and
- 4) Even if historical data were available, basing future plans on it is inconsistent with the goal of aggressively driving the EV market in the future.⁴²

Given the many factors beyond the Company's control that determine whether the State's planned EV future comes to fruition, the Cap should not penalize the Company if EV adoption and associated revenues materialize at a different pace than anticipated.

Staff also recommends limiting consideration of “revenues from electric vehicles in the utility's service territory”⁴³ to “[incremental] revenues from electric vehicles in the utility's service territory [that are driven by the TEP].”⁴⁴ But Staff acknowledged that the statute does not state that EV revenues must be incremental or tied to the TEP.⁴⁵ And Staff acknowledged it would be near impossible to identify actual incremental revenues attributable to the TEP – particularly as the market grows.⁴⁶ Accordingly, Staff's definition should be rejected.

2. OCC's Methodology is Not a Retail Rate Impact Comparison

The OCC offers two different methodologies to determine compliance with the Cap, but

³⁹ Hrg. Tr. at 171:11-15 (Nov. 18, 2020). The matching principle generally requires matching expenses against revenues in the same time period.

⁴⁰ Hrg. Tr. at 171:1-10 (Nov. 18, 2020); Hrg. Ex. 105 at 47 (Ihle Rebuttal).

⁴¹ Hrg. Ex. 300 at 30-33 (Haglund Answer); Hrg. Ex. 105 at 48 (Ihle Rebuttal).

⁴² See Hrg. Tr. at 189:4-10 (Nov. 18, 2020); Hrg. Ex. 105 at 47-48 (Ihle Rebuttal).

⁴³ C.R.S. § 40-1-103.3(6).

⁴⁴ Hrg. Ex. 300 at 30-33 (Haglund Answer); see generally Hrg. Tr. 183:4-184:2 (Nov. 18, 2020).

⁴⁵ Hrg. Tr. at 183:13-17 (Nov. 18, 2020).

⁴⁶ Hrg. Tr. at 29:12-30:5 (Nov. 23, 2020).

neither involves the “retail rate impact” of the TEP as required by the statute.⁴⁷ The OCC’s proposed methodology to calculate the Cap is to simply add Public Service’s total retail revenues and revenues from EV charging revenue together and then take 0.5 percent of that total.⁴⁸ The OCC then compares this amount to Public Service’s proposed TEP budget to conclude that “the Company’s [TEP] budgets contain in excess of 0.5 percent of all revenues.”⁴⁹ But the TEP budget is not the same as the retail rate impact of the TEP, and the statute is clear that it is the retail rate impact that cannot exceed 0.5 percent of total retail revenue.⁵⁰ Next, the OCC compares the TEP revenue requirement plus the cost to serve EV charging which it labels “Total TEP Costs” to its calculated 0.5 percent Cap.⁵¹ But again, this is not a retail rate impact as it does not account for any of the revenues associated with EV charging that offset additional investments.⁵² The Settling Parties therefore agreed that the Commission should decline to adopt either Staff’s or OCC’s Cap methodologies and calculations as inconsistent with the statute, and designed solely to reduce the size of the TEP⁵³ without any analysis of the effect on benefits.⁵⁴

G. Utility Ownership of EV Supply Infrastructure

The Settling Parties agreed that it is not only reasonable, but necessary to a robust TEP, for Public Service to install and own EVSI – also known as “make-ready” infrastructure” – as part of its Commercial and MFH portfolios. SB 19-077 allows utilities to own EV make-ready

⁴⁷ C.R.S. § 40-1-103.3(6).

⁴⁸ Hrg. Ex. 600 at 9 (England Answer).

⁴⁹ Hrg. Ex. 600 at 10 (England Answer).

⁵⁰ C.R.S. § 41-103.3(6).

⁵¹ Hrg. Ex. 600 at 10-11 (England Answer).

⁵² Hrg. Ex. 108 at 17:11-12 (Wishart Rebuttal) (“A retail rate impact is widely understood to include all of the costs and benefits associated with a utility program.”).

⁵³ Staff’s recommended Cap is about 28 percent lower than the Company’s calculation, and the OCC’s recommendation is about 65 percent lower. Hrg. Ex. 108 at 24 (Wishart Rebuttal).

⁵⁴ Hrg. Tr. at 174:16-175:15 (Nov. 18, 2020).

infrastructure with Commission permission.⁵⁵ Further, SB 19-077 recognizes that Colorado utilities are well-positioned to support transportation electrification by investing in EVSI, and the legislative declaration at the beginning of the bill states that “investments in infrastructure” are “necessary to maximize the benefits of the expanding electric vehicle market.” Thus, there is broad support among the parties that the Company should offer, provide, and own EVSI.

Likewise, the Commission has authorized deferred accounting for Public Service to invest in EVSI through Proceeding No. 19A-0471E, and other Xcel Energy EVSI programs have been approved in Minnesota and Wisconsin.⁵⁶ Beyond Xcel Energy’s service territories, utility-owned EVSI programs have also been approved in California and Massachusetts.⁵⁷

Only Staff objects to Company investment in EVSI as specified in the Agreement, recommending that the Company only be permitted to support EVSI investment through O&M-expensed rebates.⁵⁸ However, Staff witness Mr. Camp acknowledged that a key purpose of SB 19-077 is for utilities to support the development of EV infrastructure.⁵⁹ And in other proceedings, Staff has acknowledged that “depending on each state’s regulations, a utility may be able to go beyond the customer meter and own and operate infrastructure connecting the customer meter to the charger with or without owning the charger itself.”⁶⁰ Here, not only does the enacting legislation contemplate utility ownership of EVSI, but Staff offers no “state regulation” that prohibits it – and yet seems to take a blanket opposition to utility EVSI ownership.

⁵⁵ See C.R.S. § 40-5-107(1)(b)(I).

⁵⁶ See Hrg. Ex. 105 at 72-73 (Ihle Rebuttal).

⁵⁷ Hrg. Ex. 1002 at 8 (Muller Cross-Answer).

⁵⁸ Hrg. Ex. 300 at 35-46 (Haglund Answer).

⁵⁹ Hrg. Ex. 305 at 8-14 (Camp Cross-Answer); Hrg. Tr. at 26:01-27:15 (Nov. 18, 2020).

⁶⁰ Proceeding No. 17I-0692E, Colorado PUC EV Working Group Report at 31 (Jan. 15, 2019).

While Mr. Haglund argued that Company ownership of EVSI will “drive out all competition,”⁶¹ Public Service’s TEP is in fact designed to spur competition. As discussed by Company witness Mr. Schwain, Public Service will rely on contractors to provide these services and award this work through competitive processes.⁶² In addition, EOs witness Mr. Muller explained how Public Service’s EVSI investment will bolster rather than supplant or disrupt existing competition.⁶³ Importantly, none of the EV charging providers cited competitiveness concerns in this area. By seeding the market and accelerating EV adoption, the Company seeks to create more demand for EVs and a larger market for the EV industry.

The Agreement provision for Public Service to directly invest in EVSI will defray the upfront costs of charging infrastructure, and minimize overall costs and maximize overall benefits associated with transportation electrification consistent with SB 19-077. Public Service has the unique ability to leverage economies of scale and its expertise in managing electrician and construction services – benefits that rebates in this area could not achieve.⁶⁴

Further, EOs witness Mr. Muller explained that utility commissions have consistently recognized and highlighted these benefits in approving similar programs.⁶⁵ And while Public Service’s EVSI proposal leverages the tools expressly provided in statute and that have proven successful in other jurisdictions, Staff admitted it has not performed any analysis, nor proffered

⁶¹ Hrg. Ex. 300 at 41 (Haglund Answer).

⁶² Hrg. Ex. 106 at 64 (Schwain Rebuttal). The IBEW Local 111, as well as the Colorado Building and Construction Trade Council and the Rocky Mountain Environmental Labor Coalition, provided public comment that the contractors and electrical workers Staff seeks to protect support Public Service investment in EVSI. *See* Hrg. Tr. at 223:02-225:02 (Nov. 18, 2020) and public comments submitted on Nov. 23, 2020, and Nov. 12, 2020, respectively.

⁶³ Hrg. Ex. 1002 at 4-7 (Muller Cross-Answer).

⁶⁴ *See* Hrg. Ex. 105 at 74 (Ihle Rebuttal); Hrg. Ex. 106 at 63-65 (Schwain Rebuttal).

⁶⁵ Hrg. Ex. 1002 at 7-8 (Muller Cross-Answer).

facts or precedent, actually showing that limiting utility EVSI support to O&M-expensed rebates could meaningfully advance Colorado’s EV goals and the objectives of SB 19-077.⁶⁶

Finally, it is important at this early stage of the EV market to directly provide EVSI and cover the full extent of these costs through the TEP’s Commercial and MFH programs offering such support. Under Public Service’s proposal, customers receiving EVSI will still be responsible for covering significant costs, including charging equipment, any contributions required as part of the line extension policy, and most of the EVs themselves. While levels of support could be revisited in the future as the EV market develops, Staff’s and OCC’s proposals for limiting EVSI support based on certain parameters such as revenues or public accessibility⁶⁷ could prevent the TEP from sufficiently addressing this significant barrier to widespread EV adoption.⁶⁸ And limiting support based on parameters that do not address key statutory considerations could run counter to SB 19-077.⁶⁹ As such, the Company urges adoption of this portion of the Agreement.

H. Amortization of TEP Rebates

The Agreement also supports creation of a regulatory asset for TEP rebates, amortization of the regulatory asset over 10 years, and a return on the unamortized balance at the Company’s approved WACC (referred to as the “amortization of TEP rebates”). SB 19-077 specifically contemplates and permits this treatment of TEP rebates, and the amortization of TEP rebates advances widespread transportation electrification in multiple respects as explained in Mr. Ihle’s Rebuttal Testimony.⁷⁰ More specifically, amortization of TEP rebates:

- **Helps rebates accomplish more in the most critical phase for EV market transformation.** The retail rate impact cap in SB 19-077 understandably places a limit on

⁶⁶ Hrg. Tr. at 174:16-175:15 (Nov. 18, 2020).

⁶⁷ Hrg. Ex. 300 at 46-47 (Haglund Answer); Hrg. Ex. 601 at 9-20 (Neil Answer).

⁶⁸ Hrg. Ex. 106 at 66-67 (Schwain Rebuttal).

⁶⁹ Hrg. Ex. 1004 at 21 (Jester Cross-Answer); Hrg. Ex. 510 at 12-13 (Wahl Cross-Answer).

⁷⁰ See C.R.S. § 40-3-116 (a).

how much a utility can invest in a TEP. Regardless of how the Cap is measured, requiring Public Service to expense the entire cost of rebates in the same year they are granted could limit the Company's ability to achieve the legislative goals in any year in which rebates are first offered, by increasing the revenue requirement impact of each rebated dollar several-fold. And while Staff argued that unamortized TEP rebate balances could impinge upon future TEPs' Caps,⁷¹ increasing access to the benefits of transportation electrification through rebates is especially critical in the early market transformation years. It may not be necessary to offer the same level of rebates after the EV market successfully develops. Additionally, as EV adoption expands, there will be more load over which to spread the costs of rebate amortization and therefore more room under the Cap.⁷² By contrast, treating rebates as O&M expenses, as proposed by Staff and OCC, would raise the upfront cost of TEP rebates and potentially their availability to serve customers at the most critical times.⁷³

- **Aligns with other state commissions' decisions.** As explained in Mr. Ihle's Rebuttal Testimony, Public Service's proposal to recover TEP rebates through an amortized regulatory asset and earn a return at its approved WACC on the unamortized balance is consistent with the approach of recent decisions of several other states' commissions, including New York, Michigan, and Maryland.⁷⁴
- **Supports intergenerational equity.** The proposed rebates are designed to support the acquisition of transportation electrification assets, including EVs and related charging infrastructure, that will result in long-term environmental, public health, and economic benefits for the State of Colorado. It would be unfair to require customers to bear all of the costs for TEP rebates in the year the rebate is awarded when future customers will continue to reap benefits from transportation electrification that those rebates helped support.⁷⁵
- **Encourages utility objectivity in designing TEPs.** Capital-like treatment for TEP rebates encourages utilities to thoughtfully consider where rebates to support private investment may be more effective at advancing widespread transportation electrification than utility ownership of such assets and vice versa. While Public Service's direct investment in EVSI is essential to maximizing the overall benefits of utility TEPs, Public Service is open to considering EVSI rebates for future TEPs (in addition to direct investment) if the Commission approves comparable cost recovery and treatment.
- **Creates a financial incentive for utilities to support transportation electrification through rebates.** SB 19-077 offers a wide variety of regulated activities a utility can propose, recognizing that a comprehensive approach is necessary to address the many barriers to widespread EV adoption. It is in the public interest and consistent with the objectives of SB 19-077 to ensure utilities have financial incentives to support the

⁷¹ Hrg. Ex. 300 at 22 (Haglund Answer).

⁷² See Hrg. Ex. 107 at 27 (Freitas Rebuttal).

⁷³ Hrg. Ex. 105 at 61 (Ihle Rebuttal).

⁷⁴ Hrg. Ex. 105 at 63 (Ihle Rebuttal); Hrg. Ex. 300 at Attachment ERH-7, p. 81 (Haglund Answer).

⁷⁵ Hrg. Ex. 105 at 62 (Ihle Rebuttal).

acquisition of transportation electrification assets through rebates. In instances where Company rebates are not amortized and are instead treated as O&M expenses, as in DSM plans, the Commission provides much larger performance mechanisms than proposed in the TEP to create financial incentives that align with public policy goals. Moreover, the TEP involves different (i) statutory objectives and tools, (ii) a smaller scale, (iii) a specific timeline for EV market transformation, and (iv) sources of capital. As a result, Public Service does not recommend treating rebates as O&M for the TEP.

In sum, as explained by Mr. Ihle and Mr. Freitas and acknowledged by Mr. Haglund,⁷⁶ TEP rebates support the acquisition of transportation electrification assets that result in long-term benefits. TEP rebates are not pass-through expense items or regular O&M costs of doing business as a regulated utility. Rather, TEP rebates represent utility-funded capital that is being invested in our communities to realize the benefits outlined in the plan, and are consistent with SB 19-077.

I. Rider Recovery

1. Rider Recovery is Appropriate and Consistent with TEP Statute

In implementing a TEP, each utility will incur significant expenditures that are not currently being recovered through base rates. To address this in a timely fashion and encourage investment, SB 19-077 expressly provides for “rate recovery mechanisms that allow earlier, as determined by the Commission, recovery of [TEP] costs, including the use of rate adjustment clauses.”⁷⁷ Consistent with this statutory authorization, the Settling Parties support Public Service’s recovery of its annual TEP revenue requirement⁷⁸ in the Demand-Side Management Cost

⁷⁶ See Hrg. Ex. 105 at 60 (Ihle Rebuttal); Hrg. Ex. 107 at 28 (Freitas Rebuttal); *see also* Hrg. Tr. at 190:12-191:01 (Nov. 18, 2020).

⁷⁷ Hrg. Ex. 109 at 3 (SB 19-077); C.R.S. § 40-3-116(1)(b).

⁷⁸ The TEP annual revenue requirement under the CPCA includes a return, equal to the Company’s WACC, on capital investments and rebates; the plant-related ownership costs associated with such investments, including depreciation and amortization, accumulated deferred income taxes, and income tax expense; the annual amortization expense associated with rebates; O&M expenses; and the cost of energy to operate Company-owned public charging stations incurred in connection with the Commission-approved TEP for the year in which the CPCA will be in effect. Hrg. Ex. 103 at 12 (Freitas Direct).

Adjustment (“DSMCA”) rider and renaming this combined rider the Customer Program Cost Adjustment (“CPCA”).⁷⁹ Rider recovery is also consistent with the type of recovery authorized for other policy initiatives such as the Renewable Energy Standard Adjustment rider and the currently pending Clean Energy Plan Adjustment rider.⁸⁰

Staff opposes TEP rider recovery and instead favors more frequent Phase 1 rate cases.⁸¹ Staff supports this recommendation by first alleging that the rider proposal does not meet “Commission established principles” for rider recovery.⁸² However, neither the legislature nor the Commission has codified any specific rider approval criteria. While the Commission has articulated (in some decisions) three possible criteria to determine whether a rider is appropriate,⁸³ it recently declined to strictly follow these criteria and looked to other policy considerations.⁸⁴ These considerations include urgency and need to accelerate the proposed activities, *reduction* in regulatory lag, providing greater flexibility and response to changing costs, a *reduction* in the number of general ratemaking cases, and a public interest in addressing obsolete and aging facilities.⁸⁵ While the last policy consideration generally does not apply here, the remaining factors support approval of a rider for the TEP:

⁷⁹ Hrg. Ex. 103 at 12 (Freitas Direct).

⁸⁰ Hrg. Ex. 107 at 35-36 (Freitas Rebuttal).

⁸¹ Hrg. Ex. 301 at 49 (Sigalla Answer).

⁸² Hrg. Ex. 301 at 16-24 (Sigalla Answer).

⁸³ See Proceeding No. 17AL-0429G, Decision No. R18-0014 at 31 ¶ 87 (mailed Jan. 8, 2018); Proceeding No. 09AL-837E, Decision No. C10-1119 at 8-11 (mailed Nov. 9, 2010) (applying the three-pronged test in approving a purchased capacity cost adjustment: (1) the costs to be recovered are volatile; (2) the volatile costs are large in magnitude; and (3) the volatile costs are beyond the utility’s control).

⁸⁴ Proceeding No. 17AL-0429G, Decision No. C18-0311 at ¶ 32 (mailed May 3, 2018) (“The Commission is reluctant to set forth a policy on cost adjustments and rate mechanisms in the narrow context of this rate proceeding for a single natural gas utility. We also conclude that such a policy is not required.”).

⁸⁵ See Proceeding No. 17AL-0429G, Decision No. R18-0014 at 31-32 ¶¶ 88-90 (mailed Jan. 8, 2018) (citing Application No. 32603, Decision No. C80-1592 at 4 (mailed Aug. 12, 1980)).

- 1) **The enacting legislation made clear that there is an urgent need to accelerate TEP investments** to support Colorado’s transportation electrification and GHG emission reduction goals.⁸⁶
- 2) Despite Staff’s focus on the virtues of rate cases and regulatory lag to incentivize utilities to reduce costs between rate cases,⁸⁷ **the Commission has approved other rider proposals to reduce regulatory lag and the need for more frequent, resource-intensive rate cases** involving cost recovery requests across a number of areas.⁸⁸ Further, here there is a legislative directive to propose new investments and implement a plan to support extensive transportation electrification and emissions reduction targets. It would be inappropriate and unfair to require utility investments and then intentionally delay cost recovery through “regulatory lag.”
- 3) **Absent annual rate case filings, Public Service could also forfeit its ability to recover TEP-related O&M costs that are necessary to fulfill the state’s goals.**⁸⁹ For example, absent a rider, rate cases filed in 2021 and 2023 with historical test years (as the Commission typically requires, and consistent with Staff’s proposal for the Company to file a rate case every two years) would wholly skip recovery of O&M costs incurred in 2021. Under Staff’s rebate proposal, this would – not coincidentally – also be the year with the highest TEP costs within the three-year program.
- 4) **The rider provides greater program management flexibility and offers the Commission greater, more regular insight into its costs.** The annual revenue requirements for the TEP change each year of its three-year term.⁹⁰ Rider recovery of these costs allows for annual adjustment of costs recovered so the Company neither over- or under-recovers, and allows the Commission to review actual and forecasted TEP costs on an annual basis, which is generally more frequent than rate cases.

Staff also urges rejection of rider recovery claiming that it will result in a “windfall” to the Company due to the revenue from new EV-related load growth.⁹¹ This contention ignores the existence of Public Service’s current RDM and that any revenue above the baseline set in the Company’s last rate case would be subject to potential refund through the RDM.⁹² While decoupling only applies to residential and small commercial customers, the TEP programs are

⁸⁶ Hrg. Ex. 109 at 1 (SB 19-077).

⁸⁷ Hrg. Ex. 301 at 9-10 (Sigalla Answer).

⁸⁸ See Proceeding No. 17AL-0429G, Decision No. R18-0014 at 31-32, ¶ 88 (mailed Jan. 8, 2018) (citing Application No. 32603, Decision No. C80-1592 at 4 (mailed Aug. 12, 1980)).

⁸⁹ Hrg. Ex. 105 at 53-54 (Ihle Rebuttal); Hrg. Ex. 107 at 49 (Freitas Rebuttal).

⁹⁰ Hrg. Ex. 107 at 48 (Freitas Rebuttal).

⁹¹ Hrg. Ex. 301 at 49 (Sigalla Answer).

⁹² Hrg. Ex. 107 at 32 (Freitas Rebuttal).

primarily aimed at these same customer classes.⁹³ Conversely, Staff’s proposals would eliminate Public Service’s ability to timely recover its TEP costs since any additional revenue (above the baseline) would be subject to potential refund to customers through the RDM but no rider recovery of TEP costs would be available.⁹⁴ Finally, rider recovery does not equate to automatic cost recovery. Public Service’s annual October 1 rider forecast filing and annual April 1 true-up filings will be subject to review by parties and the Commission. The Commission will have the authority to disallow any expenditure that it finds imprudent.⁹⁵

On a related note, Staff also objects to including TEP costs in the DSMCA rider and renaming it the CPCA, on the grounds that a combined rider would not be sufficiently transparent.⁹⁶ This ignores the robust annual compliance, forecasting, and true-up reporting for the TEP programs, as well as the regularly-updated, detailed “Understanding Your Bill” information on Public Service’s website.⁹⁷ Additionally, combining these two riders makes sense given the relatively small size (\$0.0005 per kWh) of the proposed TEP charge.⁹⁸

The TEP statute specifically allows the Commission to authorize a rider for recovery to incentivize utilities to make TEP investments in support of furthering the state’s policy objectives, and the Commission should authorize such recovery here.

2. Rider Return on Equity (“ROE”) Should be as Approved by the Commission in the Company’s Last Rate Case

Staff also recommends that the Commission should approve an annually adjusted ROE for Public Service’s TEP investments, if a rider is approved.⁹⁹ Specifically, Staff witness Ms. Sigalla

⁹³ Hrg. Ex. 107 at 32 (Freitas Rebuttal).

⁹⁴ Hrg. Ex. 107 at 36 (Freitas Rebuttal).

⁹⁵ Hrg. Ex. 107 at 37 (Freitas Rebuttal).

⁹⁶ Hrg. Ex. 301 at 57-60 (Sigalla Answer).

⁹⁷ Hrg. Ex. 101 at 20 (Ihle Direct); Hrg. Ex. 108 at 42 (Wishart Rebuttal).

⁹⁸ Hrg. Ex. 108 at Attachment SWW-11 (Wishart Rebuttal).

⁹⁹ Hrg. Ex. 301 at 61-63 (Sigalla Answer).

recommends that the ROE should be calculated using the annual average of the most recent monthly 30-year high quality market corporate bond par yield plus 300 basis points which she states results in a 6.14 percent ROE for 2020.¹⁰⁰ Thus, in addition to proposing cost recovery mechanisms that put the Company at high risk of non-recovery (as discussed throughout this SOP), Staff's calculated ROE is a significant reduction from the 9.30 percent ROE approved in the Company's last electric rate case.¹⁰¹ This proposal is inconsistent with both the terms of the statute and Commission practice, and is based on a methodology Staff has questioned in the past.

The TEP legislation (C.R.S. § 40-1-103.3(6)) provides that, “[a]n electric public utility may recover the costs of distribution system investments to accommodate alternative fuel vehicle charging, subject to evaluation and cost recovery provisions that are comparable to other regulated investments in the distribution grid.” The ROE for other distribution investments is the ROE set in the Company's last rate proceeding. Even more explicitly, C.R.S. § 40-3-116(1)(a) states that the “return on any investment” made under a TEP may be set “at the electric public utility's weighted average cost of capital, including the most recent rate of return on equity, approved by the [C]ommission.” Ms. Sigalla's formula is not at all tied to the Commission's established methods or approved ROE, and in any event a rider proceeding without modeling, proxy groups, consideration of both debt and equity, and other detailed analysis is not the place to select a new method previously contested by Staff itself.¹⁰² Here, the statute speaks clearly. The Commission should reject Ms. Sigalla's controversial and inappropriate recommendation.

¹⁰⁰ Hrg. Ex. 301 at 62 (Sigalla Answer).

¹⁰¹ Proceeding No. 19AL-0268E, Decision No. C20-0096 at ¶102 (mailed date Feb. 11, 2020).

¹⁰² Hrg. Ex. 107 at 44 (Freitas Rebuttal); Proceeding No. 19AL-0268E, Public Answer Testimony of Fiona Sigalla at 40 (Oct. 8, 2019).

Ms. Sigalla supports her proposed ROE by alleging that rider recovery lowers Public Service’s risk profile since these costs are “not at risk of recovery.”¹⁰³ This is not the case. These will be new expenses, resulting from the legislature’s mandate that utilities submit TEPs. New rider recovery of new expenses does not materially change the Company’s risk profile – especially since riders are relatively common for utilities in many states. And as discussed throughout the “Perfect Storm” of Company witness Mr. Ihle’s Rebuttal Testimony and at the evidentiary hearing,¹⁰⁴ Staff’s proposals would, if accepted, put the Company at risk for cost recovery.

3. Carrying Charges Should Apply to All True-Up Amounts

Staff further recommends that if a rider is approved, the Company should credit customers a carrying charge on any over-recovery amounts as part of the annual true-up mechanism, but not charge customers carrying costs for under-recovery amounts.¹⁰⁵ CEO witness Mr. Hay takes Staff’s recommendation a step further and recommends carrying charges should not be applied to any true-up amounts.¹⁰⁶ Both of these recommendations disregard that a carrying charge is a legitimate cost to account for the time value of money that must be recognized any time a payment is delayed.¹⁰⁷ This principle applies regardless of whether the party owed the payment is the Company or the customer.

Staff contends that an asymmetrical carrying charge will incentivize the Company to accurately forecast TEP revenues and costs.¹⁰⁸ However, this incentive already exists, as the rider’s true-up mechanism ensures that the Company recovers no more and no less than its actual

¹⁰³ Hrg. Ex. 301 at 26 (Sigalla Answer).

¹⁰⁴ See Hrg. Ex. 105 at 46-69 (Ihle Rebuttal); Hrg. Tr. at 121:6-14; 219:18-221:18 (Nov. 13, 2020).

¹⁰⁵ Hrg. Ex. 301 at 61 (Sigalla Answer).

¹⁰⁶ Hrg. Ex. 700 at 83-84 (Hay Answer).

¹⁰⁷ Hrg. Ex. 107 at 41 (Freitas Rebuttal).

¹⁰⁸ Hrg. Ex. 301 at 61 (Sigalla Answer).

costs.¹⁰⁹ And given the current, uncontested uncertainty around both the EV market and the economy in general,¹¹⁰ Public Service should not be penalized when its forecasts diverge from actual results. Thus, the Commission should conclude that carrying charge application as part of the annual true-up for both over-recovery and under-recovery is reasonable, balanced, and accounts for the uncertainty in the EV market.

4. EV Revenue in CPCA Rider

As yet another proposed modification to Public Service's CPCA rider and the Agreement, Staff witness Mr. Haglund and OCC witness Dr. England assert that the proposed rider should incorporate all EV revenues in the Company's service territory as an offset to TEP costs.¹¹¹ However, the revenue generated from the use of TEP Company-owned chargers is already used as an offset to TEP costs in the Company's TEP revenue requirements calculation.¹¹² The EV revenue that Staff and the OCC seek to add to the CPCA rider is the revenue associated with load growth due to more EVs in Public Service's service territory.¹¹³ These are not reasonable proposals, and are rejected in the Agreement adopting the rider and Cap set forth in Public Service's Rebuttal case.

First, these additional EV charging revenues, that stem from current base rates, are needed to fund Public Service's non-TEP cost of service for the rest of the electric system as approved by the Commission.¹¹⁴ Second, the majority of this EV load growth revenue is already subject to the

¹⁰⁹ Hrg. Ex. 103 at 14 (Freitas Direct).

¹¹⁰ Hrg. Ex. 300 at 14 (Haglund Answer) (“[T]here is a great deal of uncertainty surrounding the EV market during the three-year period covered by this TEP.”).

¹¹¹ Hrg. Ex. 300 at 22 (Haglund Answer); Hrg. Ex. 600 at 12-17 (England Answer).

¹¹² Hrg. Ex. 107 at 32-33 (Freitas Rebuttal).

¹¹³ Hrg. Ex. 107 at 32-33 (Freitas Rebuttal).

¹¹⁴ Hrg. Ex. 107 at 32-33 (Freitas Rebuttal); Hrg. Ex. 105 at 55 (Ihle Rebuttal).

RDM as described above, and crediting customers with this same revenue in the CPCA rider would double count these revenues.¹¹⁵

Overall, the Agreement is supported by agreement of a wide variety of parties and represented interests and covered a number of important issues and reasonable outcomes for this TEP. As such, the Company urges adoption of the Agreement and the outcomes supported therein.

III. KEY ISSUES NOT ADDRESSED IN THE AGREEMENT

A. Public Service Charging Stations

1. DCFC Public Charging Station Siting and Pricing

To fill identified gaps that the competitive market may not serve, Public Service proposed to install roughly 20-25 Company-owned public direct current fast charging (“DCFC”) stations in underserved areas within its service territory.¹¹⁶ Public Service received significant intervenor support for its public DCFC proposal. In addition, parties proposed various modifications to the Company’s original proposal, several of which the Company incorporated in Rebuttal.¹¹⁷

With respect to siting of DCFC charging stations, Public Service plans to engage in a collaborative process with stakeholders and the charging industry to site Company-owned DCFC chargers in a manner that balances the need for increased access to public DCFC stations while supporting competition and the private charging market.¹¹⁸ This process would include the

¹¹⁵ Hrg. Ex. 107 at 33 (Freitas Rebuttal).

¹¹⁶ Hrg. Ex. 102 at 32-33 (Schwain Direct); Hrg. Ex. 106 at 16-22 (Schwain Rebuttal).

¹¹⁷ Public Service agreed: (1) Per feedback from Staff and ChargePoint, to offer DCFC stations with power capacities of less than 150 kW, in addition to higher-powered stations; and (2) Per ChargePoint’s recommendation, to provide site host flexibility and choice on charging equipment, as well as the ability to provide multiple charging ports at identified sites in the Company-owned DCFC program. The Company also does not oppose JEVCP’s recommendation to double TEP support for DCFC development in underserved areas, but believes that the current proposal to own and operate approximately 20-25 DCFC stations properly balances expanding access with the necessary capital and ongoing operation costs. *See* Hrg. Ex. 106 at 21-22 (Schwain Rebuttal).

¹¹⁸ Hrg. Ex. 106 at 20 (Schwain Rebuttal).

Company first identifying potential station locations through a siting analysis.¹¹⁹ This siting analysis will identify potential underserved areas based on distance from other charging stations and the density of charging needs, where charging stations will be needed but are not yet economically viable for private chargers, who tend to focus on profit as much or more than need.¹²⁰

For the 2021-2023 TEP, Public Service anticipates that the proposed siting analysis would incorporate the latest EV registration and market data to most accurately assess locations needing public DCFC access, while also considering the associated costs.¹²¹ As a regulated company, Public Service is particularly well-suited to invest in these underserved communities with less concern about immediate charging profits.¹²² Following this siting analysis, the Company would then engage with stakeholders and discuss the potential sites – a step that is critical in helping ensure that the Company accurately accounts for all publicly-supported and private market station development – before developing a new site.¹²³

EVgo (a charging company) recommends a 50-mile threshold from another publicly-available DCFC station. This proposed metric is too rigid to reflect the realities and needs of EV charging demand.¹²⁴ Instead, the Company's siting analysis will be able to effectively identify underserved areas without imposing an arbitrary radial guide.

Finally, CEO and Electrify America both recommend prolonged timelines for DCFC station development to allow more time for the private market to develop charging sites.¹²⁵ Public Service disagrees with these recommendations, which would delay the development of DCFC

¹¹⁹ See Hrg. Ex. 102 at 32 (Schwain Direct); Hrg. Ex. 106 at 19-21 (Schwain Rebuttal).

¹²⁰ Hrg. Ex. 106 at 18-20 (Schwain Rebuttal).

¹²¹ Hrg. Ex. 106 at 20 (Schwain Rebuttal); Hrg. Tr. at 61:24-62:8 (Nov. 16, 2020).

¹²² Hrg. Tr. at 181:11-25 (Nov. 23, 2020).

¹²³ Hrg. Ex. 106 at 21 (Schwain Rebuttal).

¹²⁴ Hrg. Ex. 106 at 22 (Schwain Rebuttal).

¹²⁵ See Hrg. Ex. 701 at 32-33 (Williss Answer); Hrg. Ex. 900 at 21 (Shah Answer).

stations in underserved areas, thereby impeding on EV market growth and customer benefits by failing to meet the needs of these customers and communities in a more expeditious manner.¹²⁶

For Company-owned DCFC stations, the Company proposes a standard charging rate of \$0.25 cents per kWh and a critical peak pricing (“CPP”) rate of \$1.50 per kWh, as well as a dwell charge of \$0.50 per minute for continued connection to the charger that begins accruing ten minutes after EV charging is complete.¹²⁷ In balancing the feedback from parties in Answer Testimony with maintaining price signals that are reflective of system costs, the Company revised its originally-proposed per-minute rate to a more affordable per-kWh rate while maintaining a CPP rate.¹²⁸ However, the Company did not adopt ChargePoint’s recommendation to allow site hosts to establish pricing on Company-owned stations as this proposal would basically mean that site hosts would be burdened with the operational cost of the DCFC service and would constitute a different program.¹²⁹ Public Service also did not adopt Electrify America’s proposal for a reduced demand charge to alleviate private DCFC station costs. This matter was already decided in 19AL-0290E via a settlement that Electrify America supported.¹³⁰

Public Service also heard concerns that the CPP rate could result in a negative or unpredictable experience for EV drivers;¹³¹ however, the CPP is an important price signal to EV customers that will ensure that the Company’s grid is used more efficiently, particularly as

¹²⁶ Hrg. Ex. 106 at 22 (Schwain Rebuttal); Hrg. Tr. at 266:20-267:20 (Nov. 16, 2020).

¹²⁷ Hrg. Ex. 108 at 34 (Wishart Rebuttal).

¹²⁸ Hrg. Ex. 108 at 33-34 (Wishart Rebuttal).

¹²⁹ Hrg. Ex. 400 at 44-45 (Wilson Answer).

¹³⁰ See Proceeding No. 19AL-0290E, Decision No. R19-0826 at 7-8 at Attachment A (mailed Oct. 8, 2019); Hrg. Ex. 900 at 21-22 (Shah Answer). Further, Electrify America witness Mr. Shah acknowledged he had not read the governing law and therefore did not know that SB 19-077 promotes competition – not increased market share for private companies, with costs passed to all other utility customers. See Hrg. Tr. at 181:11-182:9 (Nov. 23, 2020).

¹³¹ See Hrg. Ex. 701 at 42 (Williss Answer); Hrg. Ex. 1001 at 68 (Kressig Answer).

dependence on renewables grows.¹³² Additionally, CPP events are infrequent and of short duration as the Company's tariff limits the number of critical peak events to 15 four-hour events each year, or a total of 60 hours per year, while still allowing charging stations to be available to those that need them during CPP events.¹³³ To make it easier for customers to plan for CPP events, the Company proposed to notify customers by email or text message in advance of CPP events.¹³⁴

2. Depreciable Life of Chargers

Public Service recommends approval of a 10-year depreciable life for EV chargers, consistent with current industry practice.¹³⁵ Staff and OCC, however, argue that a 10-year life is too long, relying primarily on arguments of obsolescence.¹³⁶ In particular, Staff witness Mr. McCabe argues for a five-year depreciable life, citing to Tesla's Battery Day as evidence that larger capacity chargers and vehicle-to-grid capabilities will make current chargers obsolete within five years.¹³⁷ Tesla's witness Ms. Wahl, however, disagreed with this assessment and stated that, in fact, the charger onboard Tesla vehicles today is not bi-directional capable.¹³⁸ Mr. McCabe further acknowledged that shortening the depreciable life of a charger could raise the costs of TEP programs, like the Home Charging Service program, for participating customers thereby potentially slowing the adoption of EVs in Colorado.¹³⁹

OCC witness Dr. England makes similar technological obsolescence arguments, without

¹³² Hrg. Ex. 108 at 34-35 (Wishart Rebuttal); Hrg. Tr. at 233:5-18 (Nov. 17, 2020).

¹³³ Hrg. Ex. 104 at 15 (Wishart Direct); Hrg. Ex. 108 at 35 (Wishart Rebuttal); Hrg. Tr. at 228:5-10 (Nov. 17, 2020).

¹³⁴ Hrg. Ex. 108 at 35 (Wishart Rebuttal).

¹³⁵ Hrg. Ex. 103 at 9 (Freitas Direct); Hrg. Ex. 107 at 20-21 (Freitas Rebuttal).

¹³⁶ Hrg. Ex. 304 at 31-36 (McCabe Answer); Hrg. Ex. 600 at 27-30 (England Answer).

¹³⁷ Hrg. Ex. 304 at 33-34 (McCabe Answer).

¹³⁸ Hrg. Ex. 501 at 20-21 (Wahl Cross-Answer); *see also* Hrg. Tr. at 102:5-15 (Nov. 18, 2020).

¹³⁹ Hrg. Tr. at 103:7-12 (Nov. 18, 2020); *see also* Hrg. Tr. at 320:12-19 (Nov. 23, 2020) ("The shorter the depreciable life, the greater the costs that need to be collected each year.").

the support of any study or research,¹⁴⁰ but also raises the length of time consumers own a car and stay in a residence as arguments against a 10-year life for chargers.¹⁴¹ These factors, however, are entirely unrelated to the depreciable life of an EV charger.¹⁴² The decision by an EV customer to move does not have any impact on the useful life of a charger, as Dr. England acknowledged during the evidentiary hearing.¹⁴³ In fact, an EV charger is not permanently installed in a customer's residence; if a resident no longer needs the charger, the Company is able to remove and redeploy it.¹⁴⁴ Similarly, if an EV owner were to replace an EV with a non-EV, the charger would be removed from the residence and deployed in another location without stranded costs.¹⁴⁵

3. Transfer of Charging Station Ownership

Several intervenors recommend that ownership of the charging equipment should be transferred from Public Service to the customer when equipment has been fully paid for or after participating in a Residential, MFH, or Commercial optional charging service for 10 years.¹⁴⁶ Similarly, the EOs suggest that customers have the ability to pay off the remaining costs owed to Public Service for the charging station at any point to gain ownership¹⁴⁷ The Company requests that the Commission reject these recommendations for several reasons.

Transferring charging station ownership to customers after 10 years would be contrary to the public interest because this would increase costs for customers. Specifically, transferring ownership would remove the chargers older than 10 years from the average which would decrease

¹⁴⁰ Hrg. Tr. at 315:8-23 (Nov. 23, 2020) (England).

¹⁴¹ Hrg. Ex. 107 at 28-29 (England Answer).

¹⁴² Hrg. Ex. 107 at 19 (Freitas Rebuttal).

¹⁴³ Hrg. Tr. at 316:7-10 (Nov. 23, 2020).

¹⁴⁴ Hrg. Tr. at 316:16-19 (Nov. 23, 2020); Hrg. Ex. 107 at 19-20 (Freitas Rebuttal).

¹⁴⁵ Hrg. Ex. 107 at 20 (Freitas Rebuttal); Hrg. Tr. at 317:14-16 (Nov. 23, 2020).

¹⁴⁶ See Hrg. Ex. 300 at 59, 66, 73 (Haglund Answer); Hrg. Ex. 1001 at 18 (Kressig Answer); Hrg. Ex. 701 at 12 (Williss Answer).

¹⁴⁷ Hrg. Ex. 1001 at 18 (Kressig Answer).

the average depreciable life and increase the annual depreciation expense used in the calculation of the monthly Home Charging Service rate. It would also create administrative burdens due to complications with group depreciation of these assets.¹⁴⁸ Further, there is no evidence of customer demand for or interest in taking ownership of charging stations after 10 years.¹⁴⁹

An early buy-out option would also be problematic for many of the aforementioned reasons.¹⁵⁰ The EOs argue that this option would help address the situation in which a customer moves,¹⁵¹ without contemplating that the Company has already accounted for such a scenario.¹⁵² In response to Staff’s financing recommendation, this could be an idea to consider in the future but requires detailed development and it is unclear whether customer demand for additional financing options exists.¹⁵³ Further, for an upfront purchase option, as proposed by Staff, customers that would like to acquire their own charger can participate in one of the TEP programs that is not an optional charging station program, like a “bring-your-own” program where customers benefit from a \$500 rebate to cover such costs.¹⁵⁴

B. EV Purchase and Lease Rebate Program

In collaboration with CEO, Public Service proposed an EV purchase rebate program to spur greater EV adoption through an upfront point-of purchase incentive.¹⁵⁵ This program was a focus of debate among parties in both Cross-Answer and at the evidentiary hearing. This rebate

¹⁴⁸ Hrg. Ex. 106 at 72 (Schwain Rebuttal); Hrg. Ex. 107 at 22-25 (Freitas Rebuttal).

¹⁴⁹ Hrg. Ex. 106 at 73 (Schwain Rebuttal); Hrg. Tr. at 197:22-198:2 (Nov. 18, 2020).

¹⁵⁰ See Hrg. Ex. 106 at 73-74 (Schwain Rebuttal).

¹⁵¹ Hrg. Ex. 1001 at 34-35 (Kressig Answer).

¹⁵² Hrg. Ex. 106 at 74 (Schwain Rebuttal) (“[F]or a reasonable fee, the Company will redeploy the charging station to another customer’s premise to create a streamlined and low-cost experience for all customers involved.”).

¹⁵³ Hrg. Ex. 106 at 74 (Schwain Rebuttal).

¹⁵⁴ Hrg. Ex. 106 at 74-75 (Schwain Rebuttal); Hrg. Ex. 107 at 25-26 (Freitas Rebuttal); Hrg. Tr. at 200:20-201:3 (Nov. 18, 2020).

¹⁵⁵ Hrg. Ex. 106 at 53, 56 (Schwain Rebuttal); see also Hrg. Ex. 1300 at 33-34 (Madsen Answer).

program would offer customers a \$4,000 rebate for new EVs, a \$1,500 rebate for used EVs, and an additional \$1,500 rebate for income-qualified customers.¹⁵⁶ The EV purchase and lease rebates would be available on a first-come, first-served basis to Public Service customers, with a limit of one rebate per year per residential customer and 30 rebates per year for commercial customers, and a limit of one rebate per vehicle.¹⁵⁷ Customers receiving an EV purchase rebate from Public Service would also be required to sign an agreement stating that they will not also claim a state tax rebate for this EV purchase.¹⁵⁸ In light of discussions at the hearing, the Commission could choose to further direct funding for EV purchase and lease rebates to where it is most needed by considering a base model Manufacturer's Suggested Retail Price ("MSRP") cap such as \$50,000 as proposed by CEO and/or a specific carve out in the program's funding, for example 15 percent consistent with the overall TEP funding commitments described above, to support EV purchases and leases among income-qualified customers.

Both Staff and the OCC oppose an EV purchase rebate program, claiming that such a program is not authorized by Colorado statute.¹⁵⁹ This critique ignores both the plain language of the legislation and its overarching policy goal to increase the number of EVs on Colorado roads. Contrary to Staff and OCC's contention, C.R.S. § 40-5-107(1)(b)(IV) expressly provides that a TEP may include "customer education, outreach, and incentive programs that ... encourage greater adoption of electric vehicles."¹⁶⁰ An EV purchase rebate program would do just that by providing

¹⁵⁶ Hrg. Ex. 106 at 56 (Schwain Rebuttal).

¹⁵⁷ Hrg. Ex. 106 at 57 (Schwain Rebuttal).

¹⁵⁸ Hrg. Ex. 106 at 59-60 (Schwain Rebuttal). Staff witness Mr. Gene Camp alleges that a legislative change would be required to ensure that EV purchasers do not take advantage of both the state tax credit and the Public Service rebate. Hrg. Ex. 305 at 18 (Camp Cross-Answer). A legislative change is not needed, however, as this same objective can be accomplished through a term in the contract.

¹⁵⁹ Hrg. Ex. 305 at 6-7 (Camp Cross-Answer); Hrg. Ex. 602 at 4-5 (England Answer).

¹⁶⁰ Hrg. Ex. 109 at 4 (SB 19-077); C.R.S. 40-5-107 (1)(b)(IV).

an incentive to lower the upfront cost of an EV that will encourage greater EV adoption. The income-qualified EV purchase rebates will also address one of the other stated goals of the legislation, which is to “provide access for low-income customers” to a utility’s TEP programs.¹⁶¹ Through both an EV rebate on used EVs as well as a rebate enhancement of \$1,500 for income-qualified customers, Public Service’s rebate program will provide greater opportunities for income-qualified customers to purchase EVs and use electricity as transportation fuel.¹⁶²

Staff witness Mr. Camp also expressed concerns about the EV purchase rebate program as proposed as duplicative of the existing federal and state tax credits available to new EV purchases;¹⁶³ however, Mr. Camp also stated that “there are things that are admirable about this [EV Rebates] plan.”¹⁶⁴ One of the unique benefits of Public Service’s EV purchase rebate is that it can be offered at the point of sale, thus providing a more immediate purchase incentive and lowering a customer’s upfront cost or monthly payment, depending upon the purchase structure.¹⁶⁵ Research has shown that the closer an incentive can be provided to the point of sale, the more effective it is at increasing sales.¹⁶⁶

In contrast, federal tax credits are not provided at the time of purchase.¹⁶⁷ Instead, a purchaser must wait months or up to a year to receive this credit as part of their annual income tax

¹⁶¹ Hrg. Ex. 109 at 5 (SB 19-077); C.R.S. 40-5-107 (2)(g); Hrg. Tr. at 13:4-13 (Nov. 18, 2020).

¹⁶² Hrg. Ex. 106 at 56 (Schwain Rebuttal); Hrg. Ex. 700 at 100 (Hay Answer) (“A recent report from the Northeast States for Coordinated Air Use Management (“NESCAUM”), concluded that “[u]pfront vehicle purchase costs remain a significant barrier to EV ownership in [low- and medium-income] households. Incentive programs, especially those with equity-focused components, can help overcome financial barriers and expand EV access for income-customers’ ...”).

¹⁶³ Hrg. Ex. 305 at 18-19 (Camp Cross-Answer).

¹⁶⁴ Hrg. Tr. at 17:23-24 (Nov. 18, 2020).

¹⁶⁵ Hrg. Ex. 106 at 59-60 (Schwain Rebuttal); Hrg. Ex. 700 at 96 (Hay Answer).

¹⁶⁶ Hrg. Ex. 700 at 96 (Hay Answer).

¹⁶⁷ Hrg. Ex. 700 at 93 (Hay Answer). In addition, Tesla and General Motors vehicles are no longer eligible for federal tax credits as each has sold more than 200,000 EVs. *Id.*

filing.¹⁶⁸ State tax credits are similarly limited, although Colorado has provided for assignability of these credits to the financing entity so that the buyer can receive the discount at the point of sale.¹⁶⁹ To date, only two automakers have taken advantage of this assignment option.¹⁷⁰ Moreover, federal and state tax credits only apply to new EV purchases.¹⁷¹ This leaves out used EVs, that with their lower price make them more accessible to a larger group of customers, especially lower income customers.¹⁷² Finally, the amount of the Colorado state tax credit will be reduced starting in 2021 from \$4,000 to \$2,500 and then to \$2,000 in 2023.¹⁷³ Given the limitations and declining amounts of these tax credits, Public Service's proposed EV purchase rebate is important to enabling the substantial increase in EV adoption necessary to meet Colorado's goal of 940,000 EVs on the road by 2030.

C. Reporting and Stakeholder Engagement Requirements

Consistent with SB 19-077, the Company has proposed a robust process for gathering feedback and input from stakeholders, ensuring transparency, sharing lessons learned, and assessing customers' experiences.¹⁷⁴ As part of this process, Public Service proposes to host quarterly stakeholder group meetings; submit comprehensive annual reports providing data on key metrics; and engage in a comprehensive TEP modification process in the event of any proposed program additions, changes, or discontinuance.¹⁷⁵

¹⁶⁸ Hrg. Ex. 700 at 93 (Hay Answer).

¹⁶⁹ Hrg. Ex. 700 at 94 (Hay Answer).

¹⁷⁰ Hrg. Ex. 700 at 94 (Hay Answer).

¹⁷¹ Hrg. Ex. 700 at 92-94 (Hay Answer).

¹⁷² Hrg. Tr. at 13:4-13 (Nov. 18, 2020).

¹⁷³ Hrg. Ex. 106 at 56 (Schwain Rebuttal).

¹⁷⁴ See Hrg. Ex. 109 at 5 (SB 19-077).

¹⁷⁵ See Hrg. Ex. 102 at 15-16 (Schwain Direct).

Multiple parties showed significant interest in the Company's initially-proposed reporting and stakeholder engagement requirements.¹⁷⁶ For example, the Company received over 100 recommended reporting metrics in Answer Testimony, as well as numerous stakeholder engagement recommendations. Aside from the sheer volume of reporting and stakeholder engagement recommendations received, the primary issue with respect to these recommendations was the lack of commonality or alignment in the proposals. Moreover, the Company is concerned that an excessive number of metrics on which to report, coupled with a short duration between reports, would result in a costly and resource-intensive reporting process without commensurate benefits. No party quantified any costs or benefits of their proposed reporting or how it could be conducted, failing to acknowledge that it requires material time and money (such as the need to hire additional personnel) to fulfill detailed and extensive reporting.¹⁷⁷

That said, Public Service understands the importance of ensuring ongoing transparency and dialogue with stakeholders for this and future TEPs. To balance these considerations, the Company added some reporting and stakeholder engagement requirements based on Answer Testimony suggestions that balanced value and feasibility.¹⁷⁸ The annual reporting metrics are set forth in Company witness Mr. Ihle's Rebuttal Testimony.¹⁷⁹

For stakeholder engagement, the Company proposes meeting with stakeholders at least quarterly to provide program updates and receive feedback, consistent with the current DSM and

¹⁷⁶ Public Service received feedback on stakeholder engagement from Staff, CEO, CEC, ChargePoint, the Environmental Justice Coalition, Electrify America, and SWEEP.

¹⁷⁷ The Company notes that CEO, alone, proposed an additional almost 40 reporting recommendations in Answer Testimony. *See* Hrg. Ex. 700 at 89-92 (Hay Answer). While the Company has agreed to incorporate several of these recommendations, CEO was unable to offer specific proposals for how the Company should determine or estimate the data points requested in annual reports. *See* Hrg. Ex. 123 (CEO Response to PSCo Discovery Request 1-9); Hrg. Ex. 124 (CEO response to PSCo Discovery Request 1-11).

¹⁷⁸ *See* Hrg. Ex. 105 at 88-97 (Ihle Rebuttal).

¹⁷⁹ Hrg. Ex. 105 at 91(Ihle Rebuttal).

RES plans.¹⁸⁰ Also, the Company will (1) engage independent third-party evaluators to provide a better understanding of the impacts and effectiveness of TEP programs, and present the third-party evaluation plan at a quarterly stakeholder meeting initiating the evaluation; and (2) work proactively to ensure marketing materials are developed in a competitively-neutral manner.¹⁸¹

The Company is also open to discussing medium- and heavy-duty vehicle electrification, including school buses and transit buses, and programs to incent PHEV owner participation in managed charging during stakeholder meetings, as recommended by CEO.¹⁸² To be clear, the Company understands the importance of transparency and the need to actively engage with TEP stakeholders; however, the Company's experience suggests that focusing stakeholder discussions on a smaller set of key issues, as opposed to a much broader set of issues, can be more constructive in reaching solutions. Given this, and the evolving nature of the EV market, Public Service respectfully requests that the Commission allow the Company to maintain flexibility with respect to stakeholder engagement with the EV community.¹⁸³

D. Programmatic and Budget Flexibility

1. Program Flexibility

Public Service proposes a 60/90-Day Notice process to apprise stakeholders of material program changes or the implementation of new innovation projects.¹⁸⁴ In this Notice process, the Company would submit a 60-day notice to all interested stakeholders about the new addition or proposed change, allowing 30 days for comments and then another 30 days for good faith consideration of all stakeholder feedback. In response to input received from multiple parties

¹⁸⁰ Hrg. Ex. 101 at 79 (Ihle Direct); Hrg. Ex. 105 at 92 (Ihle Rebuttal); Hrg. Ex. 115 (Agreement).

¹⁸¹ Hrg. Ex. 105 at 94 (Ihle Rebuttal).

¹⁸² Hrg. Ex. 701 at 55 (Williss Answer); Hrg. Tr. at 154:10-155:25 (Nov. 13, 2020).

¹⁸³ Hrg. Ex. 105 at 97 (Ihle Rebuttal).

¹⁸⁴ Hrg. Ex. 102 at 38; Hrg. Ex. 106 at 29-32 (Schwain Rebuttal).

regarding the proposed notice process, in Rebuttal, Public Service agreed to a written summary of any/all input submitted by stakeholders into the Notice and to identify how and why the Company did or did not incorporate the feedback. The Company further agreed to issue 60/90-Day Notices to make it easier for stakeholders to be alerted and track any proposed changes.¹⁸⁵

However, Staff's recommendation that Staff and/or OCC should have the sole discretion to file a Notice of Deficiency that would trigger a required application proceeding if they have serious concerns with a 60/90-Day Notice process¹⁸⁶ is problematic for multiple reasons. First, Public Service committed to working collaboratively with stakeholders in a number of ways, such that a Notice of Deficiency and potential application proceeding would unnecessarily delay the Company's, stakeholders', and third-parties' ability to implement new programs and make modifications efficiently. Second, an Application process would increase expenses to all parties without furthering the statutory goals of advancing transportation electrification while minimizing costs and maximizing benefits. Third, a Notice of Deficiency would negate the flexibility afforded under the 60/90-day Notice process. Fourth, allowing a stakeholder unilateral discretion to delay the process by filing a Notice of Deficiency triggering an Application could be subject to misuse and would not promote the efficient use of Commission resources. The 60/90-Day Notice process, as proposed by the Company, will enable Public Service to make any necessary changes in an agile manner while promoting the requisite transparency and stakeholder engagement.¹⁸⁷

2. Budget Flexibility

The Company is requesting flexibility to adjust spending and program details over the term of the 2021-2023 TEP. More specifically, the Company is requesting the ability to increase or

¹⁸⁵ Hrg. Ex. 106 at 30-31 (Schwain Rebuttal).

¹⁸⁶ Hrg. Ex. 303 at 5-6 (Ghebregziabher Answer).

¹⁸⁷ Hrg. Ex. 105 at 96-97 (Ihle Rebuttal).

decrease the overall TEP budget up to 125 percent of the annual forecast.¹⁸⁸ Further, the Company is requesting the flexibility to move funds within a specific portfolio and between portfolios subject to a cap of 150 percent of each portfolio's estimated costs within a calendar year.¹⁸⁹ In light of uncertainties regarding the duration and impacts of the COVID-19 pandemic, Public Service also needs flexibility to reduce the total amount of rebates, investments, and program administration costs should conditions so warrant.¹⁹⁰

This flexibility – with built-in limits – will allow Public Service to efficiently address the evolving needs of the nascent EV market, and expand or contract programs within the TEP, in response to customer demand and other factors that are difficult to anticipate or control. Moreover, the market costs for EVSI, charging equipment, and labor may differ from the Company's forecasts. This approach is consistent with the DSM, whereby the Commission establishes a budget and identifies core areas for the Company to focus on and/or budget minimums for certain topics but leaves the specific product and service offerings and their design to the Company.¹⁹¹

IV. MATRIX OF ISSUES FOR DECISION

While large portions of the Company's TEP were not contested, there were also a variety of issues for Commission consideration in this inaugural TEP proceeding. These include some issues for which there is not sufficient room for discussion in this SOP. To help the Commission sort through the contested issues presented, Attachment 2 to this SOP is a matrix of Public Service proposals that are contested in the record and therefore likely require Commission attention. The

¹⁸⁸ Hrg. Ex. 102 at 49-51 (Schwain Direct).

¹⁸⁹ Hrg. Ex. 106 at 31 (Schwain Rebuttal).

¹⁹⁰ Hrg. Ex. 106 at 51 (Schwain Rebuttal); Hrg. Tr. at 100:11-14 (Nov. 16, 2020).

¹⁹¹ See Proceeding No. 17A-0462EG, Decision No. C18-0417 (mailed date June 6, 2018) and CORRECTED NON-UNANIMOUS COMPREHENSIVE SETTLEMENT AGREEMENT, Sections B and L (Feb. 26, 2018).

Company acknowledges that there may be other issues the Commission wishes to consider, but offers this matrix with the goal of providing a useful guide.

Further, while this SOP does not address all of the contested issues, below is a short summary of other contested issues and the Company's position with respect to each to aid the Commission in its deliberations. Specifically, Public Service recommends that the Commission:

- ***Funding for EV School Bus Program:*** Approve the Company's proposal to set aside proceeds from its historical sales of carbon offsets and RECs to potentially support a school bus electrification program to be developed in collaboration with interested stakeholders and community partners.
- ***EV Dedicated Renewable Products:*** Reject Staff's proposal to launch a new renewable energy product within this TEP and require TEP-specific renewable curtailment tracking.
- ***EV Pilot for Primary General Customers:*** Approve Public Service's proposed EV Pilot for Primary General customers, proposed in Rebuttal, to provide a new service connection at secondary voltage levels for customers currently receiving primary voltage service.
- ***Deferred Accounting:*** Approve deferral of the review, approval, and recovery of outside counsel expenses to the Company's next Phase I Electric rate case.
- ***Schedule EVC and Tariff Updates:*** Authorize the Company's proposed Schedule EVC and the rates and charges included therein; adjustments to the Commission's Rules and Regulations to accommodate the proposed EV Pilot for Primary General Customers; and adjustments to Schedule S-EV to accommodate the Company's installation, ownership, and maintenance of EV chargers for its proposed EV charging services under Schedule EVC.
- ***Class Cost Allocation:*** Approve the Company's proposed class cost allocation methodology for TEP costs.

V. CONCLUSION

Public Service respectfully requests that the Commission approve the Agreement and the other aspects of the Company's proposed TEP, as modified in Rebuttal, and find that the overall TEP is prudent, in the public interest, and consistent with the requirements of SB 19-077.

DATED THIS 11th day of December, 2020.

Respectfully submitted,

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