

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO**  
**PROCEEDING NO. 17AL-0649E**

---

IN THE MATTER OF ADVICE LETTER NO. 1748 FILED BY PUBLIC SERVICE COMPANY OF COLORADO TO INCREASE RATES FOR ELECTRIC BASE RATE SCHEDULES BY IMPLEMENTING A GENERAL RATE SCHEDULE ADJUSTMENT TO BECOME EFFECTIVE NOVEMBER 3, 2017

---

**COLORADO ENERGY CONSUMERS' MOTION FOR ORDER FOR DEFERRED ACCOUNTING TREATMENT OF BENEFITS ASSOCIATED WITH THE 2018 TAX RECONCILIATION ACT AND REQUEST FOR SHORTENED RESPONSE TIME**

---

The Colorado Energy Consumers ("CEC"), an unincorporated association comprised of energy consumers,<sup>1</sup> by and through its counsel, Holland & Hart LLP, and pursuant to Rule 1400 of the Commission's Rules of Practice and Procedure, respectfully submits this Motion for Order for Deferred Accounting Treatment of Benefits Associated with the 2018 Tax Reconciliation Act and Request for Shortened Response Time ("Motion"). The recent enactment of H.R. 1, an Act to Provide for Reconciliation Pursuant to Titles II and V of the Concurrent Resolution on the Budget for Fiscal Year 2018 ("2018 Tax Reconciliation Act") presents a circumstance beyond Public Service Company of Colorado's ("PSCo" or "the Company") control, which stands to significantly reduce the Company's tax liability and associated revenue requirement. This presents the opportunity for cost savings for all PSCo's ratepayers, or alternatively, a windfall for PSCo's shareholders in the absence of such a Commission-approved regulatory mechanism. Because time

---

<sup>1</sup> As provided in CEC's intervention in this proceeding, CEC is an unincorporated association of corporations duly authorized and in good standing to transact business within Colorado. All of CEC's members operate facilities within PSCo's service territory and purchase electricity and related energy services from PSCo. CEC's membership is comprised of industrial and commercial customers of PSCo and, for purposes of this proceeding, CEC's membership includes: Anadarko Petroleum Corporation, the Denver Metro Building Owners and Managers Association ("BOMA"), Lockheed Martin Corporation, MillerCoors, Suncor Energy (U.S.A.) Inc., and Western Metals Recycling. CEC's membership may change over time, as its individual members' interests may appear.

is of the essence to begin accounting for the full benefits that should properly inure to customers, CEC further requests that the Commission shorten the response time to this Motion by one week, to and including January 16, 2018.<sup>2</sup> As grounds for this Motion, CEC states the following:

### **Conferral**

In accordance with Rule 1400(a) of the Commission's Rules of Practice and Procedure, CEC made a reasonable good faith effort to confer with all parties in this matter regarding this Motion. CEC is authorized to state that the Staff of the Public Utilities Commission and Ms. Leslie Glustrom support the Motion. AARP, the City of Boulder, Evraz/CF&I Steel, L.P., Climax Molybdenum Company, Energy Outreach Colorado, Federal Executive Agencies, IBEW Local 111, Kroger Co., Sierra Club, Vote Solar, Walmart, and Western Resources Advocates have no objection to the relief requested in this Motion. PSCo counsel stated the Company's position as follows: "the Company takes no position on the Motion at this time and reserves its right to file a Response." Similarly, counsel for the OCC stated: "The OCC takes no position on the motion at this time, but has no opposition to shortened response time. It, therefore, reserves its right to file a timely response."

### **Factual Background**

1. On October 3, 2017, PSCo filed Advice Letter No. 1748-Electric with tariffs, supporting testimony, and attachments, and a proposed effective date of November 3, 2017.
2. PSCo seeks Commission approval to increase rates for all electric base rate schedules by implementing increases to its General Rate Schedule Adjustment, and to shift costs currently collected through the Clean Air-Clean Jobs Act rider and the Transmission Cost Adjustment into base rates. Based on a series of future test years, PSCo proposes to increase its

---

<sup>2</sup> Because the Commission is closed on Monday January 15, 2018 in honor and observance of Martin Luther King, Jr. Day.

base rate revenues by a net of \$244.9 million and to recover those dollars from ratepayers over a multi-year rate plan period spanning four calendar years (2018 through 2021).

3. By Commission Decision No. C17-0843, issued October 20, 2017, the Commission suspended the proposed effective date of the tariffs under Advice Letter No. 1748 pursuant to § 40-6-111(1), C.R.S., and set the matter for hearing. Then, by Commission Decision No. C17-1042-I, mailed December 15, 2017, the Commission further suspended the proposed effective date of the tariffs filed by an additional 90 days, and authorized PSCo to file an Advice Letter to implement provisional rates to go into effect on June 1, 2018, subject to refund.

4. On December 22, 2017, the President signed the 2018 Tax Reconciliation Act into law.

5. A significant feature of the 2018 Tax Reconciliation Act is a reduction in the federal corporate income tax rate from 35 percent to 21 percent. On information and belief, the 2018 Tax Reconciliation Act will significantly reduce PSCo's future tax liability and revenue requirements in a manner that is unforeseeable and extraordinary.

6. The reduction in the corporate federal income tax rate from 35 percent to 21 percent is a material change from the tax rates contemplated when the Commission set PSCo's current rates, with the potential to increase the Company's earnings such that the currently approved rates would cease to be just and reasonable.

7. Furthermore, the revenue requirement impacts associated with the 2018 Tax Reconciliation Act are not incorporated into PSCo's proposed rates in this proceeding.<sup>3</sup>

---

<sup>3</sup> CEC submits that deferred accounting treatment is appropriate irrespective of PSCo's proposed rates, since the Company's current rates do not reflect the differences or benefits properly owed to customers from the enactment of new tax laws.

## **Legal Argument**

8. Pursuant to C.R.S. § 40-3-101, the Commission is responsible for ensuring that rates are just and reasonable. C.R.S. § 40-3-102 further provides the Commission with general jurisdiction to “regulate all rates, charges, and tariffs of every public utility of this state. . . and to do all things . . . which are necessary or convenient to the exercise of such power.” The Commission also has the power to review rates that may be unreasonable or improper. C.R.S. § 40-6-111(1)(a).

9. From this authority comes the Commission’s authority and discretion to require deferred accounting as a regulatory vehicle to account for extraordinary, unforeseen, and unavoidable costs until such time as they can be recovered in rates. Indeed, the Commission has previously determined that deferred accounting orders are appropriate to:

[G]rant a public utility the opportunity to recover unanticipated costs, significant in amount, that the utility is experiencing where the circumstances warrant steps being taken now without a rate case being filed. This could stem from unanticipated costs or perhaps from new federal or state laws or rules that impact the utility’s costs.<sup>4</sup>

10. It reasonably follows that the corollary is also true. That is, deferred accounting is similarly appropriate to allow ratepayers the opportunity to benefit from a utility’s unanticipated and significant reduction in tax liability and associated revenue requirement. Just as PSCo has sought deferred accounting orders in the past when faced with extraordinary, unforeseen, and unavoidable costs, ratepayers should be permitted to request and obtain deferred accounting orders when PSCo finds itself in the position of receiving extraordinary cost savings due to factors beyond

---

<sup>4</sup> Decision No. C12-0103, ¶ 17, Mailed January 31, 2012, Docket No. 12A-066E. The Commission has also allowed for deferred accounting treatment for extraordinary expenses incurred with respect to a solar demonstration project, the mountain pine beetle epidemic, and the potential remediation of a possibly contaminated former gas manufacturing plant. See e.g. Proceeding Nos. 09A-015E, 10A-284E, and 11A-646G, respectively.

its control, particularly when all of PSCo's customer classes (not just CEC's members) would benefit from such regulatory treatment.

11. CEC submits that the impact of the 2018 Tax Reconciliation Act is precisely the type of unanticipated and extraordinary situation that warrants deferred accounting. Deferred accounting will ensure that ratepayers will be eligible to receive the full financial benefits of the 2018 Tax Reconciliation Act, and that such impacts are tracked and accounted for, while this proceeding continues. Further, the issuance of a deferred accounting order offers protection against claims of prohibited retroactive ratemaking.

12. Absent the issuance of a deferred accounting order as requested here, PSCo's ratepayers will not have the opportunity to understand and analyze the benefits of the 2018 Tax Reconciliation Act on a standalone basis, and the full extent of the benefits that should properly flow to customers may be diluted in the complexity of the Company's overall revenue requirement accounting. Failure to enter a deferred accounting order may also result in a significant windfall to PSCo shareholders at ratepayers' expense.

13. In order to ensure just and reasonable rates for Colorado ratepayers, the Commission should enter a deferred accounting order directing PSCo to track the difference between PSCo's 2018 federal income tax liability under the law prior to the 2018 Tax Reconciliation Act and the law after the 2018 Tax Reconciliation Act. That way, the Commission can ensure that ratepayers remain eligible to receive the full financial benefits of the 2018 Tax Reconciliation Act, while considering the rates to go into effect as a result of this proceeding.

14. In requesting a deferred accounting order, CEC is not asking the Commission to prejudge whether or the extent to which the amounts in the deferred account will be returned to customers. Rather, the deferred accounting order will simply ensure that any benefits of the 2018

Tax Reconciliation Act are properly tracked, considered, and dealt with in the course of this proceeding.<sup>5</sup>

15. Time is of the essence for the relief requested herein as every day of 2018 that passes without capturing the impacts of the new law for inclusion in rates results in an adverse financial impact to ratepayers. Therefore, pursuant to Commission Rule 1003, CEC seeks a variance of the 14-day response time provided in Commission Rule 1400(b). CEC respectfully submits that good cause exists for a shortened response time of seven (7) days, to and including January 16, 2018, and further respectfully requests the Commission to rule promptly on this Motion.

WHEREFORE, CEC respectfully requests that the Commission:

- (1) enter an order for a shortened response time to this Motion of seven (7) days, to and including January 16, 2018;
- (2) enter a deferred accounting order directing PSCo to track the difference between PSCo's 2018 federal income tax liability under the law prior to the 2018 Tax Reconciliation Act and the law after the 2018 Tax Reconciliation Act.
- (3) grant such other and further relief as the Commission may determine to be appropriate.

---

<sup>5</sup> See Decision No. C12-0103, ¶ 20, Mailed January 31, 2012, Proceeding No. 12A-066E (“The granting of the accounting order is appropriate because it preserves the due process rights of all the parties and does not prejudge the appropriateness of cost recovery for this issue. It does not assure that the Company will recover the costs . . . Instead, this accounting order preserves an *opportunity* for Public Service to obtain rate relief” (emphasis in original)).

Respectfully submitted this 8th day of January, 2018.

HOLLAND & HART LLP

s/Michelle Brandt King

Thorvald A. Nelson, # 24715  
Michelle Brandt King, # 35048  
Emanuel T. Cocian, #36562  
D. Austin Rueschhoff, #48278  
6380 S. Fiddlers Green Circle, Suite 500  
Greenwood Village, CO 80111  
Telephone: (303) 290-1600  
[tnelson@hollandhart.com](mailto:tnelson@hollandhart.com)  
[mbking@hollandhart.com](mailto:mbking@hollandhart.com)  
[etcocian@hollandhart.com](mailto:etcocian@hollandhart.com)  
[darueschhoff@hollandhart.com](mailto:darueschhoff@hollandhart.com)

**ATTORNEYS FOR THE  
COLORADO ENERGY CONSUMERS**

**CERTIFICATE OF SERVICE**  
**Proceeding No. 17AL-0649E**

I hereby certify that on this 8th day of January, 2018, the **COLORADO ENERGY CONSUMERS' MOTION FOR ORDER FOR DEFERRED ACCOUNTING TREATMENT OF BENEFITS ASSOCIATED WITH THE 2018 TAX RECONCILIATION ACT AND REQUEST FOR SHORTENED RESPONSE TIME** was filed through the Colorado Public Utilities Commission's E-Filing system and a courtesy copy was emailed to each of the following:

|                       |  |                    |
|-----------------------|--|--------------------|
| Paul Gomez            | <a href="mailto:paul.gomez@coag.gov">paul.gomez@coag.gov</a>                         | Commission Counsel |
| *Michael J. Santisi   | <a href="mailto:michael.santisi@coag.gov">michael.santisi@coag.gov</a>               | Staff Counsel      |
| *Charlotte Powers     | <a href="mailto:Charlotte.Powers@coag.gov">Charlotte.Powers@coag.gov</a>             | Staff Counsel      |
| *Fiona Sigalla        | <a href="mailto:fiona.sigalla@state.co.us">fiona.sigalla@state.co.us</a>             | Trial Staff        |
| *Gene Camp            | <a href="mailto:Gene.Camp@state.co.us">Gene.Camp@state.co.us</a>                     | Trial Staff        |
| *Erin O'Neill         | <a href="mailto:erin.oneill@state.co.us">erin.oneill@state.co.us</a>                 | Trial Staff        |
| *Jason Peuquet        | <a href="mailto:Jason.Peuquet@state.co.us">Jason.Peuquet@state.co.us</a>             | Trial Staff        |
| *Karl Kunzie          | <a href="mailto:Karl.Kunzie@state.co.us">Karl.Kunzie@state.co.us</a>                 | Trial Staff        |
| *Sandi Kahl           | <a href="mailto:Sandi.Kahl@state.co.us">Sandi.Kahl@state.co.us</a>                   | Trial Staff        |
| *Cathy Lopez          | <a href="mailto:Cathy.Lopez@state.co.us">Cathy.Lopez@state.co.us</a>                 | Trial Staff        |
| *Paul Caldara         | <a href="mailto:Paul.Caldara@state.co.us">Paul.Caldara@state.co.us</a>               | Trial Staff        |
| *Sharon Podein        | <a href="mailto:Sharon.Podein@state.co.us">Sharon.Podein@state.co.us</a>             | Trial Staff        |
| *Mimi Xavier          | <a href="mailto:Mimi.Xavier@state.co.us">Mimi.Xavier@state.co.us</a>                 | Trial Staff        |
| *Eric Haglund         | <a href="mailto:Eric.Haglund@state.co.us">Eric.Haglund@state.co.us</a>               | Trial Staff        |
| Ron Davis             | <a href="mailto:ron.davis@state.co.us">ron.davis@state.co.us</a>                     | Advisory Staff     |
| Harry DiDomenico      | <a href="mailto:Harry.DiDomenico@state.co.us">Harry.DiDomenico@state.co.us</a>       | Advisory Staff     |
| Keith Hay             | <a href="mailto:Keith.Hay@state.co.us">Keith.Hay@state.co.us</a>                     | Advisory Staff     |
| *Melvena Rhetta-Fair  | <a href="mailto:melvena.rhetta-fair@coag.gov">melvena.rhetta-fair@coag.gov</a>       | CO PUC             |
| Scott B. Brockett     | <a href="mailto:scott.b.brockett@xcelenergy.com">scott.b.brockett@xcelenergy.com</a> | PSCo               |
| William M. Dudley     | <a href="mailto:bill.dudley@xcelenergy.com">bill.dudley@xcelenergy.com</a>           | PSCo               |
| Schuna Wright         | <a href="mailto:schuna.wright@xcelenergy.com">schuna.wright@xcelenergy.com</a>       | PSCo               |
| Gregory E. Sopkin     | <a href="mailto:gsopkin@wbklaw.com">gsopkin@wbklaw.com</a>                           | PSCo               |
| Susan L. Bailey       | <a href="mailto:susan.l.bailey@xcelenergy.com">susan.l.bailey@xcelenergy.com</a>     | PSCo               |
| *Brent Coleman        | <a href="mailto:brent.coleman@coag.gov">brent.coleman@coag.gov</a>                   | OCC                |
| *Thomas F. Dixon      | <a href="mailto:thomas.dixon@coag.gov">thomas.dixon@coag.gov</a>                     | OCC                |
| *Ron Fernandez        | <a href="mailto:ron.fernandez@state.co.us">ron.fernandez@state.co.us</a>             | OCC                |
| *Cory Skluzak         | <a href="mailto:cory.skluzak@state.co.us">cory.skluzak@state.co.us</a>               | OCC                |
| *Chris Neil           | <a href="mailto:chris.neil@state.co.us">chris.neil@state.co.us</a>                   | OCC                |
| *Cindy Schonhaut      | <a href="mailto:cindy.schonhaut@state.co.us">cindy.schonhaut@state.co.us</a>         | OCC                |
| *Tim Villarosa        | <a href="mailto:tim.villarosa@state.co.us">tim.villarosa@state.co.us</a>             | OCC                |
| *Ingrid Hassell       | <a href="mailto:ingrid.hassell@coag.gov">ingrid.hassell@coag.gov</a>                 | OCC                |
| *Dana Showalter       | <a href="mailto:dana.showalter@coag.gov">dana.showalter@coag.gov</a>                 | OCC                |
| *Hector Arreola       | <a href="mailto:hector.arreola@state.co.us">hector.arreola@state.co.us</a>           | OCC                |
| *Thor Nelson          | <a href="mailto:tnelson@hollandhart.com">tnelson@hollandhart.com</a>                 | CEC                |
| *Michelle Brandt King | <a href="mailto:mbking@hollandhart.com">mbking@hollandhart.com</a>                   | CEC                |
| *Emanuel Cocian       | <a href="mailto:etcocian@hollandhart.com">etcocian@hollandhart.com</a>               | CEC                |
| *Connie Scribner      | <a href="mailto:CMScribner@hollandhart.com">CMScribner@hollandhart.com</a>           | CEC                |
| *Adele Lee            | <a href="mailto:ACLee@hollandhart.com">ACLee@hollandhart.com</a>                     | CEC                |

|                       |  |             |
|-----------------------|--|-------------|
| *Ellen M. Kelman      | <a href="mailto:ekelman@laborlawdenver.com">ekelman@laborlawdenver.com</a>                     | Local 111   |
| *Naomi Perera         | <a href="mailto:nperera@laborlawdenver.com">nperera@laborlawdenver.com</a>                     | Local 111   |
| Mark T. Valentine     | <a href="mailto:mvalentine@kfwlaw.com">mvalentine@kfwlaw.com</a>                               | Evraz       |
| Jacob Schlesinger     | <a href="mailto:jschlesinger@kfwlaw.com">jschlesinger@kfwlaw.com</a>                           | Evraz       |
| *Debra S. Kalish      | <a href="mailto:kalishd@bouldercolorado.gov">kalishd@bouldercolorado.gov</a>                   | Boulder     |
| *Matt Lehrman         | <a href="mailto:lehrmann@bouldercolorado.gov">lehrmann@bouldercolorado.gov</a>                 | Boulder     |
| Heather Bailey        | <a href="mailto:baileyh@bouldercolorado.gov">baileyh@bouldercolorado.gov</a>                   | Boulder     |
| Jonathan Koehn        | <a href="mailto:koehnj@bouldercolorado.gov">koehnj@bouldercolorado.gov</a>                     | Boulder     |
| Phil Jett             | <a href="mailto:jett@bouldercolorado.gov">jett@bouldercolorado.gov</a>                         | Boulder     |
| *Robyn A. Truby       | <a href="mailto:rtruby@robyntrubylaw.com">rtruby@robyntrubylaw.com</a>                         | AARP        |
| *Erin A. Overturf     | <a href="mailto:erin.overturf@westernresources.org">erin.overturf@westernresources.org</a>     | WRA         |
| *Gwen Farnsworth      | <a href="mailto:gwen.farnsworth@westernresources.org">gwen.farnsworth@westernresources.org</a> | WRA         |
| Penny Anderson        | <a href="mailto:penny.anderson@westernresources.org">penny.anderson@westernresources.org</a>   | WRA         |
| *Kurt J. Boehm        | <a href="mailto:kboehm@BKLLawfirm.com">kboehm@BKLLawfirm.com</a>                               | Kroger      |
| *Lane Kollen          | <a href="mailto:lkollen@jkenn.com">lkollen@jkenn.com</a>                                       | Kroger      |
| *Michael Hiatt        | <a href="mailto:mhiatt@earthjustice.org">mhiatt@earthjustice.org</a>                           | Vote Solar  |
| *Rick Gilliam         | <a href="mailto:rick@votesolar.org">rick@votesolar.org</a>                                     | Vote Solar  |
| *Eleanor Greer        | <a href="mailto:egreer@earthjustice.org">egreer@earthjustice.org</a>                           | Vote Solar  |
| Lisa V. Perry         | <a href="mailto:lperry@rqn.com">lperry@rqn.com</a>   | Walmart     |
| Gregory W. Tillman    | <a href="mailto:greg.tillman@walmart.com">greg.tillman@walmart.com</a>                         | Walmart     |
| Travis Ritchie        | <a href="mailto:travis.ritchie@sierraclub.org">travis.ritchie@sierraclub.org</a>               | Sierra Club |
| Joseph Halso          | <a href="mailto:joe.halso@sierraclub.org">joe.halso@sierraclub.org</a>                         | Sierra Club |
| Zach Pierce           | <a href="mailto:zach.pierce@sierraclub.org">zach.pierce@sierraclub.org</a>                     | Sierra Club |
| Ana Boyd              | <a href="mailto:ana.boyd@sierraclub.org">ana.boyd@sierraclub.org</a>                           | Sierra Club |
| Leslie Glustrom       | <a href="mailto:lglustrom@gmail.com">lglustrom@gmail.com</a>                                   | Glustrom    |
| *Mark D. Detsky       | <a href="mailto:mdetsky@dietzedavis.com">mdetsky@dietzedavis.com</a>                           | EOC         |
| *Gabriella Stockmayer | <a href="mailto:gstockmayer@dietzedavis.com">gstockmayer@dietzedavis.com</a>                   | EOC         |
| *Rebecca Boyle        | <a href="mailto:rboyle@dietzedavis.com">rboyle@dietzedavis.com</a>                             | EOC         |
| *Julie A. Wolfe       | <a href="mailto:julie@dietzedavis.com">julie@dietzedavis.com</a>                               | EOC         |
| *Skip Arnold          | <a href="mailto:sarnold@energyoutreach.org">sarnold@energyoutreach.org</a>                     | EOC         |
| *Jennifer Gremmert    | <a href="mailto:igremmert@energyoutreach.org">igremmert@energyoutreach.org</a>                 | EOC         |
| Richard L. Fanyo      | <a href="mailto:rfanyo@polsinelli.com">rfanyo@polsinelli.com</a>                               | Climax      |
|                       | <a href="mailto:dnihiser@polsinelli.com">dnihiser@polsinelli.com</a>                           | Climax      |
| Andrew J. Unsicker    | <a href="mailto:Andrew.Unsicker@us.af.mil">Andrew.Unsicker@us.af.mil</a>                       | FEA         |
|                       | <a href="mailto:ULFSC.Tyndall@us.af.mil">ULFSC.Tyndall@us.af.mil</a>                           | FEA         |
| Lanny L. Zieman       | <a href="mailto:Lanny.Zieman.1@us.af.mil">Lanny.Zieman.1@us.af.mil</a>                         | FEA         |

s/Adele C. Lee

\*\*Denotes persons eligible to receive confidential proprietary information pursuant to the Commission's rules on confidentiality, 4 CCR 723-1100-1102.

10563397\_2