BEFORE THE WASHINGTON

UTILITIES & TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION,

Complainant,

v.

CASCADE NATURAL GAS COMPANY.

Respondent.

DOCKET UG-240008

STEFAN DE VILLIERS
ON BEHALF OF THE
WASHINGTON STATE OFFICE OF THE ATTORNEY GENERAL
PUBLIC COUNSEL UNIT

EXHIBIT SDV-15

Answer Testimony of Erin T. O'Neill, Hearing Exh. 401, *In re Advice No. 1029-Gas of Public Service Co. of Colo. Revise its PUC NO. 6-Gas Tariff,* Docket No. 24AL-0049G (July 11, 2024)

September 25, 2024

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

PROCEEDING NO. 24AL-0049G

IN THE MATTER OF ADVICE NO. 1029-GAS OF PUBLIC SERVICE COMPANY OF COLORADO TO REVISE ITS COLORADO PUC NO. 6-GAS TARIFF TO INCREASE JURISDICTIONAL BASE RATE REVENUES, IMPLEMENT NEW BASE RATES FOR ALL GAS RATE SCHEDULES, AND MAKE OTHER PROPOSED TARIFF CHANGES EFFECTIVE FEBRUARY 29, 2024

HEARING EXHIBIT 401

ERIN T. O'NEILL

ANSWER TESTIMONY AND ATTACHMENTS

STAFF OF THE COLORADO PUBLIC UTILITIES COMMISSION

July 11, 2024

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I. PURPOSE OF TESTIMONY

Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

A. My name is Erin T. O'Neill. My business address is 1560 Broadway, Suite 250, Denver, Colorado 80202.

Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?

A. I am employed by the Public Utilities Commission of the State of Colorado ("Commission") as the Deputy Director of Fixed Utilities.

Q. ON WHOSE BEHALF ARE YOU TESTIFYING IN THIS PROCEEDING?

A. I am testifying on behalf of Trial Staff of the Commission ("Staff").

Q. PLEASE SUMMARIZE YOUR EXPERIENCES AND QUALIFICATIONS

A. Please see the section towards the end of my testimony entitled "Experience and Qualifications of Erin T. O'Neill."

Q. WHAT IS THE PURPOSE OF YOUR ANSWER TESTIMONY?

A. The main purpose of my testimony is to propose a new regulatory paradigm for gas utility investments. I also respond to the Company's proposal to implement a Revenue Deferral Surcharge ("RDS").

Q. HOW IS YOUR TESTIMONY ORGANIZED?

A. First, I provide a discussion of Staff's recommendation to apply a lower Return on Equity ("ROE") to gas utility investments associated with new business and capacity expansions. These investments in the growth of the utility business should not earn as high a return as investments in safety and mandatory relocations.

Second, I discuss the Company's proposal to implement a Revenue Deferral Surcharge.

Q. PLEASE SUMMARIZE YOUR RECOMMENDATIONS AND CONCLUSIONS.

A. My recommendations and conclusions are as follows:

- The Commission should order a lower ROE be applied to investments in new growth and capacity expansion projects in the gas utility business. These investments are counter to the state's policy objectives, and it is no longer just and reasonable for such investments to earn the same return as investments in safety or mandatory relocations.
- The reasonable range of ROE for growth investments ranges from the cost of debt to the minimum of the range suggested by Staff's ROE models as described in the Answer Testimony of Staff Witness Dipu (HE 402).

- Consistent with the minimum of the reasonable ROE range, the Commission should order an ROE of 7.71 percent applied to growth investments while a higher ROE of 9.00 percent should be applied to safety investments as discussed in the Answer Testimony of Staff Witness Dipu (HE 402).
- The Commission should reject the Company's RDS proposal in its entirety. If the Commission chooses to approve an RDS mechanism, Staff recommends that the Company not earn a return on the deferred balance.

II. A NEW REGULATORY PARADIGM FOR THE GAS BUSINESS

Q. WHAT IS THE PURPOSE OF THIS SECTION OF YOUR TESTIMONY?

A. In this section of my testimony, I address the continued "business as usual" performance of the Company regarding growth in the gas utility business and Staff's proposal to partially address the future of this fossil-fuel based industry. Specifically, I discuss and support Staff's recommendation that the Commission order a lower ROE to investments in new growth in the gas utility business. These investments are counter to the state's policy objectives, and it is no longer just and reasonable for such investments to earn the same return as investments in safety or mandatory relocations.

A. Current Regulatory Framework

Q. PLEASE SUMMARIZE THE CURRENT REGULATORY FRAMEWORK FOR THE NATURAL GAS UTILITY BUSINESS IN COLORADO.

A. Other than normal rate case proceedings (including the consideration of appropriate depreciation rates and the treatment of salvage values), the Colorado regulatory structure for gas utilities includes:

- ***Gas Infrastructure Planning ("GIP")***: Examines forecasted investment across the Company's system;
- ***Certificates for Public Convenience and Necessity ("CPCN")***: Provides the Commission an opportunity to closely examine large

investments and potential alternatives, including non-pipes alternatives ("NPAs");

- ***Gas Demand Side Management ("DSM") and Beneficial Electrification ("BE") Plans***: Develops program to reduce the demand for gas within the Company's system and rewards the Company for program implementation;
- ***Clean Heat Plans ("CHP")***: Develops programs to reduce greenhouse gas emissions from gas utilities and rewards the Company through earnings on DSM and BE rebates.[1]
- ***Revenue Decoupling***: The Company's proposal in this proceeding is to implement full revenue decoupling, insulating the Company from variations in demand for gas, customer growth and weather.[2]
- ***Electric Distribution System Planning ("DSP"):***[3] With the passage of Senate Bill 24-218, the Company will earn a return on electric distribution system investments on a forecast basis for investments deemed to support electrification or other state policy objectives.

This regulatory framework provides the Commission with oversight and review of large utility infrastructure projects and provides the Company with incentives to implement programs that reduce gas usage and greenhouse gas

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[1] *See* Proceeding No. 23A-0392EG, Commission Decision No. C24-0397 at ¶¶ 237-240 (authorizing a WACC return on rebates for DSM and BE measures funded through the CHP). Although the Commission has not yet issued a final decision on any potential RRR, Staff is unaware of any party that asked the Commission to reconsider that portion of Commission Decision No. C24-0397.

[2] The Answer Testimony of Staff Witness Haglund (HE 403) provides Staff's recommendation regarding the Company's decoupling proposal.

[3] As a mainly dual fuel utility with substantially overlapping service territories, the Electric DSP is relevant to Public Service's gas planning activities.

emissions. If adopted, the Company's decoupling proposal would also provide a nearly guaranteed return on capital investments.

Q. IS ANYTHING LACKING FROM THIS REGULATORY FRAMEWORK?

A. Yes. The current regulatory structure in Colorado is lacking at least two things:

1. Proactive Commission oversight of ordinary course of business investments in new business and capacity expansion projects,[4]
2. Any disincentive for the Company to continue to pursue investments that support the growth of the natural gas business.

Currently, the Company is operating in a "have its cake and eat it too" environment where it earns on new and existing electric utility infrastructure,[5] earns on new and existing gas infrastructure, earns bonuses for electrification activities, and earns bonuses for gas demand reduction programs. There is no financial incentive for the Company to actively manage or reduce investment in new gas infrastructure and no consequence for poor performance in addressing new growth.

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[4] See Proceeding No. 23M-0234G, Commission Decision No. C24-0092 ¶ 65 (noting that "the fifteen projects presented in the GIP represent a tiny fraction (less than four percent) of the Company's planned capital expenditures, given that the Company projects total expenditures of roughly $2.38 billion over the five year period 2023 – 2027.").

[5] Including earning on investments aimed at mitigating the impacts of climate change such as wildfire mitigation investments and renewable generating assets.

Q. HOW DOES STAFF PROPOSE THE COMMISSION ADDRESS THESE DEFICIENCIES IN THE CURRENT REGULATORY ENVIRONMENT?

A. Staff recommends that the Commission order a lower rate of return on utility investments that are driven by growth and increasing demand. I will describe this proposal in detail below, but such an approach would provide the Commission with a critical tool that it is lacking. Applying a lower return to infrastructure aimed at supporting growth in the gas business provides an incentive for the Company to reduce or avoid such investments, even those that are in the ordinary course and unlikely to be subject to review under a CPCN.

B. Overview of Staff Proposal

Q. WHAT IS DRIVING THE COMPANY'S RATE CASE REQUEST?

A. According to Company Witness Berman, the Company's revenue deficiency "largely derives from distribution and transmission plant investments, particularly as the PSIA rider was closed to new investments as of December 31, 2021…"[6] **Table ETO-1** below summarizes the Company's breakdown of gas operation capital additions since its last rate case.

[6] Direct Testimony of Company Witness Berman (HE 101) at 48:16-18.

Table ETO-1: Gas Capital Additions Since Last Rate Case[7]

Budget Category	**Total Additions 2022 to 2023 ($M)**	**Fraction of Additions**
Mandatory Relocations	$69.5	6.9%
New Business	$238.1	23.8%
Capacity Expansion	$127.6	12.7%
System Safety and Integrity	$567.1	56.6%
Total	$1,002.2	

Q. HOW DOES THE COMPANY DEFINE NEW BUSINESS?

A. The Company describes the new business capital category as "utility investments needed to provide gas service to new customers, or to customers requiring new gas service."[8] The Company states that, while it has "multiple voluntary offerings, as well as federal, state, or other incentives, which can be presented to the customer to reduce or possibly eliminate the request for gas service, … these offerings are voluntary, and adoption by the customer is outside the control of the Company."[9] As shown in Table ETO-1 above, this category represents approximately one quarter of the capital additions since the last rate case.

[7] Direct Testimony of Company Witness Gardner (HE 105) at 13:1-3, Table ARG-D-1.
[8] Direct Testimony of Company Witness Gardner (HE 105) at 45:5-6.
[9] Direct Testimony of Company Witness Gardner (HE 105) at 46:3-6.

Q. HOW DOES THE COMPANY DEFINE CAPACITY EXPANSION PROJECTS?

A. Company Witness Gardner states that "capacity expansion projects include both individual projects and sets of inter-related facilities needed to maintain system reliability and meet a specified capacity expansion need, including for new customers or facilities that are not otherwise new business projects, or for reliability and growth related to existing customers."[10] As shown in Table ETO-1 above, capacity expansion projects represent approximately 13 percent of total capital additions.

Q. HAVE INVESTMENTS IN THESE CATEGORIES BEEN INCREASING OR DECLINING?

A. Although the Company failed to provide a 5-year history for these investments,[11] Staff's analysis found these investments are increasing.

Based on a comparison of summary tables from the last two rate case proceedings, it would appear that new business investments, as well as overall investments, are increasing. **Table ETO-2** below provides a summary of annual investments in new business and total capital investments. It was not

[10] Direct Testimony of Company Witness Gardner (HE 105) at 62:5-9.
[11] PSCo response to Staff Discovery Requests No. CPUC 21-3 and CPUC 21-4 (**Attachment ETO-1)**.

possible to provide an apples-to-apples comparison for capacity expansion projects as the Company's categorizations have changed over the course of the last three rate cases.[12]

Table ETO-2: Trend in New Business and Overall Gas Investments[13]

Proceeding No.	**20AL-0049G[14]**	**22AL-0046G[15]**	**24AL-0049G[16]**
Time Period	1/17– 9/20	10/19– 6/21	1/22– 12/23
New Business ($Ms)	$323.6	$202.8	$238.1
New Business/($M/yr)	$86.3	$90.1	$119.1
Total ($Ms)	$830.2	$992.2	$1,002.3
Total ($Ms/yr)	$221.4	$441.0	$501.2

Q. WHY IS STAFF HIGHLIGHTING NEW BUSINESS AND CAPACITY EXPANSION PROJECTS?

A. These investments are largely driven by new and increasing demand for natural gas, as opposed to the projects needed for compliance with federal safety standards or mandatory relocations. Put another way, these investments are counter to the objective of reducing natural gas usage in the

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[12] *See* PSCo Response to Staff Discovery Requests No. CPUC 21-4(a), provided in Attachment ETO-1 at 2, which states that "[t]he capacity expansion category is new in this proceeding, as the Company has updated its categories in alignment with the categories of capital investment set forth in the Gas Infrastructure Plan ("GIP") Rules …"

[13] These data tables of "Gas Operations Capital Additions" from previous gas rate cases as well as Table ARG-D-1 are reproduced in **Attachment ETO-2**.

[14] Direct Testimony of PSCo Witness Litteken, Rev. 1 (HE 102 in Proceeding No. 20AL-0049G) at 20:3, Table LAL-D-1.

[15] Direct Testimony of PSCo Witness Zich (HE 106 in Proceeding No. 22AL-0046G) at 11:3, Table JHZ-D-1.

[16] Direct Testimony of PSCo Witness Gardner (HE 105) at 13:1-3, Table ARG-D-1.

future. They are counter to the goals of DSM programs, counter to BE programs, and counter to CHP objectives. As demonstrated above by Table ETO-1, approximately 36 percent of the Company's capital additions since the last rate case are in support of growth in the gas business.

Q. DOESN'T THE COMPANY HAVE THE OBLIGATION TO SERVE CUSTOMERS REQUESTING NATURAL GAS SERVICE?

A. Yes. I am not a lawyer, but Staff is not disputing the Company's obligation to serve customers requesting natural gas service.

Q. WHAT DOES STAFF RECOMMEND REGARDING SUCH INVESTMENTS?

A. Given the Company's obligation to serve, Staff is not suggesting a disallowance from rate base of new business or capacity expansion projects. Staff recommends that such new capital additions be subject to a lower ROE than other investments such as those for safety and mandatory relocations. Staff Witness Dipu demonstrates that a reasonable ROE range for this proceeding is from 7.71 to 9.0 percent and ultimately recommends a ROE of 9.0 percent.[17] Staff recommends the Commission set a return on new business and capacity

[17] *See* Direct Testimony of Staff Witness Dipu (HE 402).

expansion projects between the long-term cost of debt of 2.44 percent and the low end of the modeled ROE range of 7.71 percent.

Q. WHAT IS THE IMPACT OF STAFF'S RECOMMENDATION ON THE OVERALL REVENUE REQUIREMENT AND DEFICIENCY IN THIS PROCEEDING?

A. **Table ETO-3** below demonstrates the impact of this recommendation in combination with Staff's Weighted Average Cost of Capital ("WACC") component recommendations but does not include the impact of Staff's other revenue requirement recommendations. Table ETO-3 shows the impact of the following cases:

- Column 1: Company proposal;[18]
- Column 2: Staff's recommended WACC components for all rate base investments;
- Column 3: Staff's recommended WACC components with new business and capacity expansion projects earning at the minimum of the ROE range;
- Column 4: Staff's recommended WACC components with new business and capacity expansion projects earning at the long-term cost of debt.

[18] Direct Testimony of PSCo Witness Freitas (HE 117), Attachment APF-1.

Table ETO-3: Impact of Lower ROE for New Business and Capacity Expansion Projects

	PSCo	Staff WACC	Min ROE-Growth	LT Debt-Growth
ROE	10.25%	9.00%	9.00%	9.00%
WACC	7.50%	5.88%	5.88%	5.88%
ROE-Growth			7.71%	2.44%
WACC-Growth			5.22%	2.48%
Composite ROE			8.89%	8.43%
Composite WACC	7.50%	5.88%	5.82%	5.58%
Rev. Req. ($Ms)	$964	$857	$854	$842
Rev. Deficiency ($Ms)	$171	$67	$64	$51
Delta Deficiency ($Ms)		$-104	$-107	$-120
Impact of ROE Adj. ($Ms)			$-3	$-16

Q. WHY DOES STAFF CONSIDER THE MINIMUM OF THE MODELED ROE RANGE TO BE THE TOP OF THE RANGE FOR GROWTH INVESTMENTS?

A. As discussed above, these investments are not consistent with the state's policy objectives. It is no longer just and reasonable for investments supporting expansion of the fossil fuel industry to earn the same return as investments in federal safety compliance. If the Commission determines that such investments should still earn a return based on the Company's debt and equity capital structure, the lowest ROE supported by financial modeling should be applied to these assets.

Q. WHY DOES STAFF CONSIDER THE LOW END OF THE ROE AT THE COST OF DEBT TO BE REASONABLE?

A. There are several arguments that support applying a cost of debt return for gas business growth investments. The cost of debt is the lowest possible cost financing option for an investment. As discussed in Section II.E below, there is Commission precedent for applying a cost of debt return to certain assets.

In addition, these assets are at serious risk of becoming stranded in the future as the state pursues its goal of achieving 100 percent net-zero greenhouse gas emissions by 2050. Securitization, which generally results in a carrying charge similar to the cost of debt, is often discussed as a reasonable financial treatment for assets stranded as a result of decarbonization. Staff is not suggesting that the Company pursue securitization at this time, simply that securitization, with its lower carrying charge, is often deemed to represent a more reasonable cost for ratepayers regarding stranded assets and provides a helpful benchmark for this proposal.[19]

[19] For instance, in Proceeding No. 22A-0515E, the Company evaluated several financing options for retiring coal generating assets with stranded net book value as of the retirement dates. The Company applied a Securitization Interest Rate of 4.62 percent to the bundle of assets to be securitized (compared to the after tax WACC of 6.42 percent. Direct Testimony of PSCo Witness Watson (HE 102 in Proceeding No. 22A-0515E), Attachment SAW-5. [20] While the form and details of the PIMs for Pueblo Unit 3 and system emissions have yet to be approved by the Commission, Proceeding No. 21A-0141E, Commission Decision No. C22-0459 ¶¶390-391 which ordered the development of such PIMs.

Q. DOES STAFF HAVE A SPECIFIC ROE RECOMMENDATION FOR THESE ASSETS?

A. Given that this is a new approach for these investments, Staff recommends that the Commission adopt a policy of gradualism at this time. Specifically, Staff recommends that the Commission order an ROE of 7.71 consistent with the minimum of the modeled range for new business and capacity expansion projects in this proceeding and maintain a lower ROE for the life of these assets. The Commission can examine and determine the appropriate return for future new business and capacity expansion investments in future rate proceedings and determine whether a further reduction in ROE is warranted.

C. Advantages of Staff Proposal

Q. WHY IS STAFF RECOMMENDING THIS PARTICULAR TOOL TO ADDRESS INVESTMENTS IN GROWTH IN THE GAS BUSINESS?

A. There are a number of advantages to this approach that I will discuss below. These advantages include:

- Creates a financial incentive to manage growth investments;
- Creates a more symmetric ecosystem of incentives;
- Does not create a disincentive for investment in safety;
- Is consistent with long established state policy goals;
- Does not place additional financial burden on new customers;

- Reduces the amount that the Company profits from a business that is driving climate change.

Q. WHAT IS THE MAIN ADVANTAGE OF THIS APPROACH?

A. This approach creates a financial incentive for the Company to manage investments in new growth and focus on the higher return investments such as safety and mandatory relocations. This Commission has affirmed over and over again the understanding that businesses respond to financial incentives. Historically, this Commission has implemented financial bonuses for meeting performance objectives in DSM proceedings. Recently, this Commission has ordered Performance Incentive Mechanisms ("PIM") for the Colorado Power Pathways Project, the Pawnee generating station conversion project, the cost and performance of Pueblo Unit 3, and for carbon emissions on the electric system.[20] In addition, the Commission has created structures where the Company earns a return on program rebates, traditionally considered operations and maintenance ("O&M") expenses, within the construct of Transportation Electrification Plans ("TEP") and CHPs.[21]

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[20] While the form and details of the PIMs for Pueblo Unit 3 and system emissions have yet to be approved by the Commission, Proceeding No. 21A-0141E, Commission Decision No. C22-0459 ¶¶390-391 which ordered the development of such PIMs.

[21] *See* generally Proceeding No. 23A-0242E (Public Service's last TEP) and CHP Proceeding No. 23A-0392EG (PSCo's CHP Proceeding), Commission Decision No. C24-0397 ¶¶ 237-240 (The Commission authorized a WACC return on rebates for DSM and BE measures funded through the CHP).

Currently, the Company has no incentive to reduce or even completely avoid new growth investments in the gas utility business. In fact, the utility has an incentive to continue such investments due to earning a return on capital. Staff's proposal creates the needed disincentive on growth investments while supporting investments in safety and providing sufficient return to support growth investments if necessary.

Q. IS STAFF'S INCENTIVE STRUCTURE SYMMETRIC?

A. Yes and no. Staff's ROE proposal in isolation is not symmetric, but the Company already has opportunities to earn bonuses for gas activities with no downside risk. Notably, there are no negative consequence or disincentives associated with any of the policy programs such as TEP, DSM or BE. Even in the context of Clean Heat Planning, if the Company does not meet the statutory greenhouse gas reduction goals, there is no negative consequence for the Company.[22] Taken as a whole, in the context of the current regulatory framework, implementing Staff's ROE recommendation would result in a more symmetric incentive framework.

[22] Proceeding No. 23A-0392EG, Commission Decision C24-0397 ¶¶ 27-33. (The Company did not present any Clean Heat portfolios in the Company's recent CHP proceeding that comply with the 2025 statutory target.).

Q. DOES THE COMPANY HAVE ANY CONTROL OVER THESE INVESTMENTS?

A. The Company states that it does not, and it argues that the Company has no control over customer adoption of electrification offerings.[23] Staff finds this claim to be curious. If the Company has no control over whether customers adopt electrification options, why does the Company earn bonuses for things like DSM, BE, or CHP activities? Isn't it Company representatives that are communicating with customers and developers about the benefits of electrification options? And isn't it the Company advertising these options to its customers? It does not seem plausible that the Company has no control over the demand for gas service, and if it does in fact lack any such control, it should not be eligible to receive bonuses for program implementation.

In addition, it is the Company that plans and develops its system including evaluating options to avoid capacity expansion. The Company can evaluate non-pipes alternatives including geographically targeted DSM programs or the deployment of Compressed or Liquefied natural gas ("CNG" and "LNG") to avoid expansion projects. Staff is not suggesting that every capacity expansion project could be avoided, but the evaluation and development of alternatives is certainly within the Company's control.

[23] Direct Testimony of Company Witness Gardner (HE 105) at 46:3-6.

Q. WHAT IS THE IMPACT OF THIS APPROACH ON SAFETY INVESTMENTS?

A. Given that the lower ROE is not applied to safety investments, but at new business and capacity expansion projects, there is no change to the earnings associated with safety investments. In fact, these projects may look comparatively more attractive to the Company as they earn a higher return than the new business investments.

Q. HOW DOES THIS PROPOSAL IMPACT CUSTOMERS WHO CONTINUE TO PURSUE NEW GAS SERVICE?

A. As stated earlier, Staff is not suggesting that the Company deny service to anyone requesting new gas service. In addition, Staff's proposal does not disproportionately increase the rates for such customers. All customers within a rate class, whether new or old, would continue to be charged the same rate for gas service.

Q. IS THIS APPROACH CONSISTENT WITH STATE POLICY?

A. Yes. The Clean Heat Plan statute articulates a goal of reducing greenhouse gas emissions by 22 percent from the gas utility business by 2030.[24] It is hard to

[24] C.R.S. § 40-3.2-108(3)(b)(II).

understand how that goal will be met without downward pressure on new growth.

In addition, Colorado statute prohibits utilities from providing "an applicant an incentive, including a line extension allowance, to establish gas service to a property"[25] and requires each gas utility to "file with the commission an updated tariff to reflect the removal of any incentives for an applicant to establish gas service to a property."[26] It would seem perverse to prohibit incentives for customers to establish new gas service but to continue to allow the utility to earn anything above the minimum WACC return needed to support such investments.

Q. YOU MENTIONED DECOUPLING EARLIER. HOW DOES THIS RECOMMENDATION INTERACT WITH REVENUE DECOUPLING?

A. If approved, revenue decoupling would further increase the need for such an ROE adjustment as Staff proposes. Normally, without decoupling, regulatory lag in combination with load and weather uncertainty create delay and risks for utility investments. These serve to provide some downward pressure on new investments and encourages the utility to spend efficiently. Revenue decoupling removes such disincentives for investment and increases the need

[25] C.R.S. § 40-3.2-104.3(2)(a).
[26] C.R.S. § 40-3.2-104.3(2)(c).

for a tool such as lowering the ROE to provide a modicum of pressure on continued growth.

Q. EARLIER YOU MENTIONED SB24-218. HOW DOES THAT NEW STATUTE INTERACT WITH STAFF'S RECOMMENDATION HERE?

A. Newly passed SB24-218 addresses investments in the electric distribution system stating that "[q]ualifying retail utilities shall upgrade the state's electrical distribution system as needed and in time to affordably and reliably support the achievement of the state's beneficial and transportation electrification and decarbonization goals …."[27] The new statute contemplates recovery of forecasted investments, rather than the traditionally-approved actual historical investments, under certain circumstances.[28] Such favorable rate recovery treatment is yet another positive incentive for the Company and is intended to ensure that the electrical system is ready for significant electrification load. Staff's proposal regarding a lower ROE for gas growth-related investments works in conjunction with this positive incentive for electric distribution investments. And if the Company distribution planning and investment is done well, the electric system should be ready to absorb the electrification growth.

[27] C.R.S. § 40-2-132.5(4)(a).
[28] C.R.S. § 40-2-132.5(4)(d)(I) and (7)(a).

Q. DOES STAFF SEE ANY DISADVANTAGES TO STAFF'S RECOMMENDATION?

A. Essentially, no. Staff's proposal provides a financial incentive to focus investment activity on safety rather than growth where no such incentive currently exists, is consistent with state policy goals, and works in conjunction with other regulatory programs, planning, and mechanisms. This proposal is a critical missing piece to the ecosystem of programs and incentives currently in place for the gas business.

D. Timing of Staff Proposal

Q. IS THIS PROPOSAL PREMATURE?

A. No, not at all. As explained below, there are multiple reasons why this is the appropriate time to implement such a proposal.

Q. ARE THERE CLEAR LEGISLATIVE DIRECTIVES?

A. Yes, there are a number of statutes that have provided clear policy goals and directives regarding the future of the natural gas utility business for several years now. Colorado's Clean Heat Plan statute, SB21-264, was passed in 2021, and the Commission recently issued a decision in the Company's first CHP implementing programs, setting goals, and establishing incentives for the Company.[29]

In 2021, the legislature also passed HB21-1238 and SB21-246, updating and tightening gas DSM requirements and requiring the filing of beneficial electrification plans. The Commission has since completed a rulemaking to implement these new statutes,[30] approved a Combined 2023 DSM/BE Plan for Public Service,[31] and approved a new Strategic Issues framework for the Company's DSM and BE programs for 2024-2026, complete with bonuses for good performance.[32]

All of these new statutes were passed before the Company filed its prior rate case (Proceeding No. 22AL-0046G) in January of 2022. This instant proceeding sits a full 3 years after the passage of these statutes, and the entirety of the investments being sought for inclusion here occurred after these policy goals were established. These statutes all provide clear goals of reducing the use of natural gas and encouraging electrification. Allowing gas utilities to earn the same return on investments that are contrary to state policy objectives is no longer just and reasonable, as these investments run a high risk of becoming future stranded assets and inappropriately increase the

[29] *See* Proceeding No. 23A-0392EG, Commission Decision No. C24-0397.
[30] *See* Proceeding No. 21R-0449G, Commission Decision No. C22-0760.
[31] *See* Proceeding No. 22A-0315EG, Commission Decision No. C23-0381.
[32] *See* Proceeding No. 22A-0309EG, Commission Decision No. C23-0413.

impact on ratepayers. The Commission should establish an incentive for the Company to manage these investments and to focus on system safety.

Q. HAS THE COMMISSION PROVIDED DIRECTIVES REGARDING THE IMPLEMENTATION OF STATE POLICIES?

A. Yes. The Commission conducted a comprehensive rulemaking in Proceeding No. 21R-0449G establishing gas infrastructure planning as well as providing guidance for CHP and DSM proceedings. The final rules in that proceeding were adopted in December of 2022 and certified by the Colorado Secretary of State in April of 2023. In addition, the Company recently completed its first GIP which addressed the adequacy of the Company's gas infrastructure plan and provided guidance regarding future GIP filings.[33]

Q. ARE THERE NON-REGULATORY REASONS WHY THIS IS AN APPROPRIATE TIME TO IMPLEMENT SUCH A CHANGE?

A. Yes. There are two obvious, non-regulatory reasons why the Commission should not delay in making such a change to discourage investment in new gas infrastructure.

First, the concept of climate change and our human impact on the environment is not new. I am not a climate scientist, and I will not go into

[33] *See* Proceeding No. 23M-0234G, Commission Decision No. C24-0092.

detail regarding the science of climate change, but we have been discussing the perils of climate change for decades. It is now widely accepted that climate change is human caused and poses serious health and environmental risks for the state. Yet the Company continues to profit off the sale and delivery of this fossil fuel even as more and more evidence mounts of the increasing risks.

Second, and in conjunction with the broad risk to human health posed by climate change, the impact is expensive. The Company recently filed an application to extend its Wildfire Mitigation Plan ("WMP") in Proceeding No. 24A-0296E. The three-year proposal includes approximately $1.9 billion of investment to help mitigate the risks of wildfire in the state. The juxtaposition of these requests is notable – the Company wants to earn a very high WACC return on continued investments in expanding the natural gas business while also earning a WACC return with rider recovery on a forecast basis of $1.9 billion in investments to attempt to curb the impact of burning such fossil fuels.

Q. ARE THERE ANY OTHER REASONS WHY THE TIMING OF THIS RECOMMENDATION IS APPROPRIATE?

A. Yes, there is at least one more reason. The electric system is now well on its way to being significantly decarbonized. The Company's Clean Energy Plan, approved by the Commission in Proceeding No. 21A-0141E, projects a 70 percent reduction in greenhouse gas emissions from the Company's electric system by 2026 and an 86 percent reduction by 2030.[34] The significant progress towards decarbonization of the electric system makes continued investment in the gas business even more problematic.

Q. IS IT UNFAIR TO THE COMPANY TO REDUCE THE RETURN ON INVESTMENTS THAT HAVE ALREADY BEEN MADE?

A. No. Staff is not arguing for a disallowance of the recovery of such investments. Staff is stating that it is no longer **just and reasonable** for these investments to receive a high WACC return. Staff is only recommending that such investments receive the low end of the modeled ROE range. The Company has had many years of warning, the state's policy objectives are clear, and the Company has the potential to earn bonuses and earn on rebates as a result of these state goals. A lower ROE on new growth investments is an entirely appropriate response to balance this framework.

E. Examples of ROE Modifications

Q. TO YOUR KNOWLEDGE, HAVE ANY OTHER STATES IMPLEMENTED A LOWER ROE FOR GROWTH INVESTMENTS?

A. No, not to my knowledge.

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[34] See Proceeding No. 21A-0141E, Public Appendix X23_2 – Inverse 1324 Plan ($0CO2)_Corrected, at 3 and 10.

Q. WHY SHOULD COLORADO BE THE FIRST STATE TO IMPLEMENT SUCH A CHANGE?

A. Colorado is at the forefront of initiating climate change goals. For example, the Colorado Governor's Office website reveals "Climate Change Goals and Actions" for the state including accomplishments such as:

- "Leading the way on climate commitments with a net-zero GHG emissions target by 2050.
- Signed a first in the nation multi-state partnership to work in removing carbon emissions through direct air capture with Wyoming.
- Is fourth in the nation (and first outside the coastal U.S.) in comprehensive, economy-wide climate coverage, according to the research group RMI."[35]

Colorado is working to be a leader on addressing climate change, demonstrating a willingness to try new things, and striving to implement a "science-based, ambitious, and substantial plan for climate leadership, pollution reduction, and clean energy transition."[36] Staff's recommendation regarding a new paradigm for gas investments is consistent with this vision.

Q. HAS THIS COMMISSION EVER ADOPTED A SIMILAR APPROACH FOR ANY OTHER INVESTMENTS?

[35] Colorado Climate Action, Climate Change Goals & Actions, https://climate.colorado.gov/colorado-goals-actions-main-page (last visited July 10, 2024).

[36] Colorado Climate Action, Climate Change Goals & Actions, https://climate.colorado.gov/colorado-goals-actions-main-page (last visited July 10, 2024).

A. The most similar example Staff is aware of is the Commission-approved ROE for the Black Hills LM6000 generating facility in Proceeding No. 16AL-0326E. In that instance, the Commission ordered a WACC specific to the LM6000 asset as distinct and different from the WACC developed for the 2015 Test Year rate based in that proceeding.[37] This example is similar to Staff's proposal in that the Commission ordered a different return for a specific asset compared to the rest of rate base and the WACC was applied after the investment was developed and in service.

Q. HAS THIS COMMISSION EVER ADOPTED A LOWER ROE FOR ANY OTHER ASSETS?

A. Yes. There are several other examples of assets where the Commission authorized a lower ROE including:

- **Initial Regulatory Asset Balance for Advanced Meters** - The regulatory asset earned no return on the capital costs associated with the new advanced meters until the balance reached $50 million;[38]

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[37] Proceeding No. 16AL-0326E, Decision No. C16-1140 ¶ 101.
[38] Proceeding No. 16A-0588E, Commission Decision No. C17-0556 ¶ 17.

- **Return on Winter Storm Uri Deferral** – The Commission approved no carrying charge for the deferred fuel costs associated with the Winter Storm Uri gas price spikes;[39]
- **Initial return on WMP expenses** – The regulatory asset for recovery of the Company's initial WMP expenses earns a return at the cost of debt until such time as the costs are rolled into rate base.[40]

Q. ARE THERE ANY OTHER INSTANCES WHERE AN ASSET MAY HAVE A DIFFERENT ROE?

A. Yes. The Commission-approved PIM for the Colorado Power Pathways transmission project is structured such that the return on the asset is tied to the Company's performance in terms of the cost to construct the project.[41] The ROE of the investment is tied to the actual construction cost compared to the budget as follows:

[39] Proceeding No. 21A-0192EG, Commission Decision No. R22-0279 ¶ 91.
[40] Proceeding No. 20A-0300E, Commission Decision No. R21-0109 ¶¶ 83-86.
[41] *See* Proceeding No. 21A-0096E, Commission Decision No. C22-0430 ¶¶ 5-8.

Table ETO-4: Colorado Power Pathways ROE PIM[42]

Actual Costs as a % of Target Costs	ROE
Up to 105%	9.30%
Over 105% and up through 110%	8.80%
Over 110% and up through 115%	8.30%
Over 115%	7.80%

This example is relevant both because it is an example of an asset potentially earning a return other than the WACC for the overall utility revenue requirement and because it provides a benchmark of a meaningful ROE impact. In this instance, the Commission established performance zones corresponding to 50 basis point tranches with up to a 150 basis reduction for poor performance.[43]

Q. WHAT DOES STAFF CONCLUDE FROM THIS REVIEW OF OTHER COMMISSION-APPROVED ROES?

A. Staff concludes that there is existing precedent in Colorado for Commission approval of a ROE other than the ROE applied to the general rate base. While Staff's recommendation here is a new concept, the Commission has already affirmed that not every asset need earn the same ROE.

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[42] Proceeding No. 21A-0096E, Appendix 1 to Pathways Project CPCN Settlement Agreement filed on November 9, 2021.

[43] Proceeding No. 21A-0096E, Commission Decision No. C22-0430 ¶¶ 5-8. Staff notes that the Power Pathways PIM is symmetric, providing the Company an opportunity to earn a higher ROE for good performance. As explained earlier, Staff does not recommend the new growth ROE impact be symmetric as the Company has opportunities to earn incentives in other gas programs.

G. Summary

Q. PLEASE SUMMARIZE STAFF'S RECOMMENDATION.

A. Staff recommends that approximately $366 million of new rate base investments associated with new business and capacity expansion investments earn a ROE of 7.71 percent, at the minimum of the reasonable range as established by Staff Witness Dipu. This lower ROE should be applied to these investments starting in this rate proceeding and continue for the life of these assets, or until such time the Commission deems appropriate to further decrease incentives on gas expansion.

Staff estimates that implementing this recommendation would reduce the Company's revenue deficiency by approximately $3 million per year.

Q. PLEASE SUMMARIZE THE OBJECTIVE OF THIS PROPOSAL.

A. State policy goals are clear and have been clear for a long time. The State is seeking to decarbonize the gas utility business and drive reductions in greenhouse gas emissions. Whatever the future of the gas utility business, whether the system is entirely electrified or the system is used to deliver some other cleaner molecule, curbing new and expanded infrastructure will make it easier to reach the State's decarbonization goals and reduce the potential for stranded assets.

Q. WHY IS STAFF'S RECOMMENDATION THE RIGHT SOLUTION?

A. Staff recommendation that growth investments earn a lower return than safety investments:

- Creates a financial incentive to manage growth investments;
- Creates a more symmetric ecosystem of incentives;
- Does not create a disincentive for investment in safety;
- Is consistent with long established state policy goals;
- Does not place additional financial burden on new customers;
- Reduces the amount that the Company profits from a business that is driving climate change.

Q. WHY IS NOW THE APPROPRIATE TIME TO IMPLEMENT SUCH A POLICY?

A. The time for delay is over. The Company has been aware of climate change for decades and aware of the State's specific goals for years. This is the second rate case filed since the passage of landmark legislation such as SB21-264, HB21-1238, and SB21-246. The Commission has adopted rules and regulations, provided guidance, and deliberated on new CHP and DSM/BE programs.

The Company has the opportunity to collect bonuses and earn on rebates as well as earning extremely favorable cost recovery for electric distribution system investments going forward and proposing to earn WACC on investments intended to help offset the impacts of climate change. Staff's proposal is a critical piece in balancing the ecosystem of incentives, providing an incentive around ordinary course of business investments and a financial reason to manage new growth.

This proposal represents another opportunity for Colorado to lead in the energy transition – meeting the decarbonization challenge with sensible and cost-effective measures consistent with the public interest.

III. REVENUE DEFERRAL SURCHARGE

Q. PLEASE SUMMARIZE THIS SECTION OF YOUR TESTIMONY.

A. Company Witness Berman describes the Company's Revenue Deferral Surcharge or "RDS" proposal to "moderate the impact of the necessary rate increase" for ratepayers.[44] This section of my testimony discusses Staff's concerns with the proposed deferral proposal.

Q. PLEASE DESCRIBE THE COMPANY'S RDS PROPOSAL.

A. In order to moderate the rate impact of the Company's revenue requirement request, the Company proposes to:

> maintain the status quo from the customer bill perspective through February 14, 2025, by creating a regulatory asset to defer recovery of its approved revenue increase for the period beginning November 1, 2024 (the Company's proposed rate-effective date in this case) and ending February 14, 2025. … [T]he Company would make a compliance advice letter filing prior to November 1, 2024 to make the decisions from this rate case effective on November 1, but would not begin collecting base rate increases at that time, and would therefore not at that time change the GRSA in the tariff. Then, on February 15, 2025 a number of rate changes would occur. First, the EGCRR that customers are paying today would no longer be on bills, as contemplated in the tariff governing that surcharge. Second, the rates approved by the Commission in this proceeding would be implemented on customer bills, and the GRSA tariff change would become effective. Finally, the Company would implement a separate Revenue Deferral Surcharge ("RDS") tariff to recover the

[44] Direct Testimony of Company Witness Berman (HE 101) at 13:10-11.

> incremental revenue deferred from November 1, 2024 through February 14, 2025 over a 12-month period…[45]

Q. DOES THE COMPANY PROPOSE TO EARN INTEREST ON THE DEFERRED COSTS TRACKED IN THE REGULATORY ASSET?

A. Yes. The Company proposes not just to earn interest but to earn its full after-tax WACC on the regulatory asset balance applied on a monthly basis.[46]

Q. DOES STAFF SUPPORT THE RDS PROPOSAL?

A. No. Staff has a number of concerns regarding the Company's RDS proposal and does not generally support deferral schemes.

Q. IS THE COMPANY'S RDS PROPOSAL FAIR?

A. Deferring costs introduces the potential for inter-temporal inequities. The Company would effectively be under-charging one set of customers during the deferral period in order to over-charge a slightly different set of customers during the surcharge period.

Q. IS STAFF CONVINCED THAT THE TIMING OF THE PROPOSAL WILL BE BENEFICIAL FOR CONSUMERS?

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[45] Direct Testimony of Company Witness Berman (HE 101) at 59:10-60:4.
[46] Direct Testimony of Company Witness Berman (HE 101) at 60:18-22.

A. No. It is impossible at this time to determine what may be occurring during either the deferral or surcharge periods. It is possible that the commodity price of gas will be low during the deferral period and high during the proposed 12-month surcharge period. The 12-month surcharge period includes summer months when electricity bills are generally the highest, and the surcharge would add to the overall burden of paying energy bills. However, this proposal seems like an unnecessary complication that may not provide customer benefits.

Q. HOW DOES THIS PROPOSAL ADD COMPLICATION?

A. This introduces yet another surcharge on customer bills that consumers may or may not understand. In addition, it adds complexity to the accounting exercise of tracking the revenue, introducing the potential for errors and making regulatory oversight more difficult.

Q. DOES THE COMPANY DERIVE A BENEFIT FROM THE RDS PROPOSAL?

A. Yes. Under the Company's proposal, it would earn WACC on its full revenue requirement during the surcharge period. In addition, the Company would effectively mask the rate impact for consumers. The Company chose the time of filing of this rate case knowing that the effective implementation would hit before the 2024-2025 winter period. The Company's proposal, which would not cost shareholders a dime, uses the guise of rate stability to deflect attention from its rate increase timed to hit during the highest demand period.

Q. IS THE COMPANY'S REQUEST TO EARN WACC ON THE DEFERRED BALANCE REASONABLE?

A. No. Customers should not be charged for the Company's deferral proposal. In the previous instance when the Company implemented a similar deferral, the deferred balance did not earn any return at all.[47] The Company is not financing its entire revenue requirement. Earning WACC on the entire revenue requirement would inappropriately provide the Company a return on O&M expenses and other non-capital related costs.

Q. ARE THERE OTHER, BETTER WAYS TO MODERATE RATES FOR CUSTOMERS?

A. Yes. If the Company were truly concerned with moderating bill impacts for customers, the Company could have waited a few months before filing this rate case. Or the Company could have requested a ROE that was not over 100 basis

[47] Proceeding No. 20AL-0049G, Commission Decision R20-673 ¶¶7-8, 64, 86, 88.

points higher than the Company's current ROE. Or the Company could have taken myriad other actions to moderate its revenue requirement request.

Q. IS STAFF UNCONCERNED WITH RATE STABILITY?

A. Staff is concerned about rate stability. But Staff is also concerned about fairness, complexity, and the Company inappropriately earning on O&M costs.

Q. WHAT IS STAFF'S RECOMMENDATION REGARDING THE RDS PROPOSAL?

A. Staff recommends that the Commission reject the Company's RDS proposal in its entirety. If the Commission chooses to approve a RDS mechanism, Staff recommends that the Company not earn a return on the deferred balance.

IV. CONCLUSIONS

Q. PLEASE SUMMARIZE YOUR CONCLUSIONS AND RECOMMENDATIONS.

A. My recommendations and conclusions are as follows:

- The Commission should order a lower ROE be applied to investments in new growth and capacity expansion projects in the gas utility business. These investments are counter to the state's policy objectives and it is no longer just and reasonable for such investments to earn the same return as investments in safety or mandatory relocations.
- The reasonable range of ROE for growth investments ranges from the cost of debt to the minimum of the range suggested by Staff's ROE models as described in the Answer Testimony of Staff Witness Dipu (HE 402).
- Consistent with the minimum of the reasonable ROE range, the Commission should order an ROE of 7.71 percent applied to growth investments while a higher ROE of 9.00 percent should be applied to safety investments as discussed in the Answer Testimony of Staff Witness Dipu (HE 402).
- The Commission should reject the Company's RDS proposal in its entirety. If the Commission chooses to approve an RDS mechanism,

Staff recommends that the Company not earn a return on the deferred balance.

Q. DOES THIS COMPLETE YOUR TESTIMONY AT THIS TIME?

A. Yes.

STATEMENT OF QUALIFICATIONS OF ERIN T. O'NEILL

I have been employed in the Economic Section of the Colorado Public Utilities Commission since 2016. My current position is Deputy Director of Fixed Utilities where I am responsible for the management of the Commission's Trial Staff. My duties also include providing technical economic and policy advice or testimony to the Commission.

Prior to joining the Commission, I worked as an economic consultant to the energy and environmental industry for nearly 20 years. From 2005 through 2016 I worked as an independent consultant. From 1996 to 2005 I was a Senior Consultant for the NorthBridge Group, an economic and strategic consulting firm serving the electricity and gas industries. I have extensive experience in electricity price forecasting, resource planning, and risk management. I have modeled the economic and environmental impacts of various electricity policies including state Renewable Portfolio Standards, Energy Efficiency programs, and national multi-pollutant regulations.

I have a Bachelor of Science degree in Mechanical Engineering from Cornell University and a Master of Science in Technology and Policy from the Massachusetts Institute of Technology. I have published numerous technical papers for the Electric Power Research Institute (EPRI) as well as economic journals such as Environmental Resource Economics.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

PROCEEDING NO. 24AL-0049G

IN THE MATTER OF ADVICE NO. 1029-GAS OF PUBLIC SERVICE COMPANY OF COLORADO TO REVISE ITS COLORADO PUC NO. 6-GAS TARIFF TO INCREASE JURISDICTIONAL BASE RATE REVENUES, IMPLEMENT NEW BASE RATES FOR ALL GAS RATE SCHEDULES, AND MAKE OTHER PROPOSED TARIFF CHANGES EFFECTIVE FEBRUARY 29, 2024

ATTESTATION OF ERIN T. O'NEILL
STAFF OF THE COLORADO PUBLIC UTILITIES COMMISSION

I, Erin O'Neill, declare under the penalty of perjury under the law of Colorado that the above testimony and attachments were prepared by me or under my supervision, control, and direction; that the testimony and attachments are true and correct to the best of my information, knowledge and belief; and that I would give the same testimony orally and would present the same attachments if asked under oath.

/s/ Erin T. O'Neill
Erin T. O'Neill