

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

PROCEEDING NO. 26AL-0137E

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IN THE MATTER OF ADVICE LETTER NO. 2018 - ELECTRIC FILED BY PUBLIC SERVICE COMPANY OF COLORADO TO REVISE COLORADO P.U.C. NO. 8 - ELECTRIC TARIFF TO ADDRESS LARGE LOADS, ADD A NEW SCHEDULE TRANSMISSION LARGE SERVICE (SCHEDULE TL) RATE, ADD A NEW CLEAN TRANSITION TARIFF (SCHEDULE CTT), AND IMPLEMENT CHANGES TO THE TRANSMISSION LINE EXTENSION POLICY, TO BECOME EFFECTIVE MAY 3, 2026.

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**REWIRING AMERICA AND SOUTHWEST ENERGY EFFICIENCY PROJECT'S  
MOTION TO INTERVENE, ENTRY OF APPEARANCE, AND NOTICE OF  
FINANCIAL DISCLOSURE**

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Pursuant to Rule 1401(c) of the Colorado Public Utilities Commission's Rules of Practice and Procedure, Rewiring America and Southwest Energy Efficiency Project (SWEEP) request permission to intervene in this proceeding involving Public Service Company of Colorado's new Large Load Tariff.<sup>1</sup> This Motion is timely filed pursuant to Decision No. C26-0280 (Apr. 30, 2026). In support of this Motion, Rewiring America and SWEEP state as follows:

**SUMMARY OF PUBLIC SERVICE'S APPLICATION**

1. This case involves a new Public Service Large Load Tariff. Through this tariff, Public Service proposes to serve new, large customer loads while protecting other retail customers from rate impacts due to large loads, ensuring energy reliability, and advancing Colorado's clean energy goals.<sup>2</sup> The proposed tariff includes three main components. First, Public Service's proposes a new Transmission Large rate class (Schedule TL) for customers with loads of at least 50 megawatts (MW).<sup>3</sup> This separate rate class

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<sup>1</sup> 4 Colo. Code Regs. § 723-1:1401(c).

<sup>2</sup> Hr'g Ex. 101, Jack Ihle Direct Test. 14:10–15:9 (Apr. 2, 2026).

<sup>3</sup> *Id.* at 16:11–16:12, 17:13 (tbl. JW1-D-2).

ensures only these customers pay the incremental cost they impose on the system, thereby insulating non-large load customers from costs and risk.<sup>4</sup> Second, it establishes a voluntary Clean Transition Tariff (CTT), which allows large load customers to pay to be served by zero-emission resources.<sup>5</sup> Public Service claims the CTT would allow large load customers to advance their corporate clean energy goals while contributing to Colorado’s emissions reduction goals.<sup>6</sup> Third, it establishes a “Speed-to-Market” pathway, which allows large load customers who require accelerated timelines or greater flexibility to enter into tailored contracts that are subject to Commission approval.<sup>7</sup>

### **ORGANIZATIONS REQUESTING INTERVENTION**

2. Rewiring America is a leading national home electrification nonprofit dedicated to accelerating the transition to clean energy in households and communities across the country. Rewiring America develops accessible tools, data, and policy solutions that empower Americans to reduce emissions, improve health outcomes, lower energy bills, and build the clean energy workforce of the future.

3. Rewiring America brings technical and policy expertise to regulatory proceedings focused on building electrification and gas system planning in Colorado and across the country.<sup>8</sup> In Colorado, Rewiring America was a party in the Public Service Gas Infrastructure Plan proceeding (Proceeding No. 25A-0220G). Rewiring America staff also submitted expert testimony in the Clean Heat Plan proceedings of both Public Service Company of Colorado (Proceeding No. 23A-0392EG) and Black Hills Colorado Gas (Proceeding No. 23A-0633G). Rewiring America also contributed residential load profile

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<sup>4</sup> *Id.* at 16:12–17, 17:13 (tbl. JW1-D-2).

<sup>5</sup> *Id.* at 16:18–21, 18 (tbl. JW1-D-2).

<sup>6</sup> *Id.* at 18 (tbl. JW1-D-2).

<sup>7</sup> *Id.* at 55:16–21.

<sup>8</sup> Rewiring America, <https://www.rewiringamerica.org/> (last visited May 21, 2026).

analysis in Black Hills Colorado Electric's recent rate case (Proceeding No. 24AL-0275E), supporting rate design proposals advanced by Sierra Club and Western Resource Advocates. Beyond Colorado, Rewiring America has participated in gas planning dockets in Washington state and the District of Columbia, as well as California's clean energy financing proceeding.

4. SWEEP is a regional public interest non-profit organization whose mission is to ensure a healthy, equitable, and low carbon future by advancing energy efficiency, electrification, and clean transportation, and to expand the economic and environmental benefits that energy efficiency, beneficial electrification, and electric vehicles provide.<sup>9</sup> SWEEP was established in 2001, and it works to advance decarbonization through energy efficiency, beneficial electrification, demand response, and transportation electrification in utility regulatory proceedings and other public policy forums in Colorado, Arizona, Nevada, New Mexico, Utah, and Wyoming. SWEEP also partners with businesses, state and local governments, and other public interest groups to promote more efficient use of our energy resources. SWEEP has more than thirty formal Business Allies, many of which are based or operate in Colorado.<sup>10</sup> SWEEP partners with these businesses to expand its work with utilities, state and local governments, and in the transportation sector.

5. SWEEP is particularly focused on technical and policy issues related to energy efficiency, beneficial electrification, demand response, and transportation electrification and it has unique expertise on these issues. SWEEP has actively participated as an intervenor in numerous Commission proceedings involving energy efficiency, beneficial electrification, and demand response. In addition, SWEEP has participated in

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<sup>9</sup> SWEEP, <https://www.swenergy.org/> (last visited May 21, 2026).

<sup>10</sup> See SWEEP Allies, <https://www.swenergy.org/allies> (last visited May 21, 2026).

commission proceedings regarding energy efficiency, beneficial electrification, demand response, and transportation electrification in other states across the region, including Arizona, Nevada, New Mexico, Utah, and Wyoming. SWEEP’s extensive involvement in these previous proceedings demonstrates its unique expertise and interest in advancing energy efficiency, beneficial electrification, demand response, and transportation electrification policies and programs.

### **ARGUMENT**

6. Rule 1401(c) allows parties to permissively intervene in a Commission proceeding if the proceeding “may substantially affect the pecuniary or tangible interests of the movant (or those it may represent) and . . . the movant’s interests would not otherwise be adequately represented.”<sup>11</sup> The Commission should allow Rewiring America and SWEEP to permissively intervene in this proceeding because Public Service’s Large Load Tariff may substantially affect their tangible interests. In addition, no other party to this proceeding will adequately represent Rewiring America and SWEEP’s unique interests.

**I. Public Service’s Large Load Tariff may substantially affect Rewiring America and SWEEP’s tangible interests in advancing energy efficiency and beneficial electrification.**

7. Rewiring America and SWEEP have tangible interests that will be affected by the Commission’s decision in this proceeding. As discussed above, both Rewiring America and SWEEP are dedicated to ensuring a healthy and equitable transition to clean energy. Rewiring America and SWEEP work to advance decarbonization through energy efficiency, beneficial electrification, and demand response, and have long advocated for robust policies and programs in Colorado. The Commission’s decision regarding Public Service’s Large Load Tariff will directly affect Rewiring America’s and SWEEP’s goals and

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<sup>11</sup> 4 Colo. Code Regs. § 723-1:1401(c).

missions because the details and the scope of the program—including how Public Service determines system costs, the terms of Schedule TL, how behind-the-meter and co-located resources are treated and how large load customers provide load flexibility—will determine the extent to which the Large Load Tariff successfully protects other customers from rate increases and ensures that data center operators can provide cost-effective flexibility and grid services.

8. For example, Rewiring America and SWEEP have a tangible interest in ensuring that data center development in Colorado does not increase rates for other customers, as high electric rates create challenges to electrification and clean energy technologies. Public Service claims its Large Load Tariff proposal appropriately allocates incremental costs to large load customers and that the minimum bill, minimum contract terms, and other customer protections and commercial principles will sufficiently protect other customers from rate increases.<sup>12</sup> Rewiring America and SWEEP will likely recommend the Commission modify Public Service’s cost allocation methodology and the customer protections and commercial principles, to better protect other customers from rate increases. The Commission’s decision in this case regarding the specific details of the cost allocation methodology for Schedule TL and the customer protections and commercial principles will determine the extent to which data centers and other large customers pay their fair share of costs and do not increase rates for other customers. The Commission’s decision will thus directly affect Rewiring America and SWEEP’s tangible interests in maximizing electrification and energy efficiency.

9. In addition, Rewiring America and SWEEP have a tangible interest in ensuring that data centers and other large load tariffs support cost-effective load flexibility

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<sup>12</sup> *E.g.*, Hr’g Ex. 101, Ihle Direct 16:11–17.

and grid services, and in ensuring that customers operate their facilities in a manner that maximizes value to the grid. Public Service states that it will encourage all new large load customers to provide load flexibility, and that it will accomplish this by allowing these customers to participate in existing demand response programs and the Interruptible Service Option Credit tariff.<sup>13</sup> The specific requirements the Commission adopts regarding how large load customers provide flexibility, including the role of virtual power plants, distributed energy resources, and behind-the-meter resources, will affect overall system efficiency and costs. Data centers often achieve load flexibility through the use of on-site fossil fuel generators, which would be inconsistent with Colorado's decarbonization goals. Rewiring America and SWEEP believe there are significant opportunities to further increase load flexibility and demand response at data centers through the use of clean energy technologies, such as virtual power plants and distributed energy resource programs. The Commission's decision in this case regarding the specific details of how data centers and other large load customers will provide load flexibility will directly affect Rewiring America and SWEEP's tangible interests in maximizing electrification, demand response, and energy efficiency.

**II. No other party will adequately represent Rewiring America and SWEEP's interests.**

10. Rewiring America and SWEEP's tangible interests in this proceeding will not be adequately represented by any other party. Rewiring America and SWEEP are non-profit organizations that are uniquely focused on advancing beneficial electrification, energy efficiency, and demand response. Their interests are therefore separate and distinct

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<sup>13</sup> *E.g., id.* at 18 (tbl. JWI-D-2), 43 (tbl. JWI-D-3).

from other parties, and they bring unique and substantial experience and expertise regarding the issues raised by Public Service’s Large Load Tariff.

11. The Colorado Office of the Utility Consumer Advocate (UCA) (formerly the Office of Consumer Counsel or OCC) cannot adequately represent Rewiring America and SWEEP’s interests in this proceeding. Rule 1401(c) states that if a motion to intervene is filed “by a residential consumer, agricultural consumer, or small business consumer, the motion must discuss whether the distinct interest of the consumer is . . . not adequately represented by the UCA.”<sup>14</sup> This additional requirement to specifically demonstrate that the UCA does not adequately represent a movant’s interests does not apply here. Rewiring America and SWEEP are seeking intervention as non-profit organizations that have tangible interests that will be affected by the Commission’s decision in this case. Rewiring America and SWEEP are not seeking to intervene as residential, agricultural, or small business customers, or on behalf of these customers.

12. Even if this additional requirement to demonstrate inadequate UCA representation were to apply, the UCA would not adequately represent Rewiring America and SWEEP’s interests in Public Service’s Large Load Tariff. As discussed above, Rewiring America and SWEEP’s core interests in this proceeding are ensuring that the Large Load Tariff adequately advances Colorado’s climate and electrification goals. The UCA’s intervention notice briefly lists ten issues that it plans to inquire into in this proceeding.<sup>15</sup> The UCA’s notice suggests that it may propose that the Commission strike a different balance than Rewiring America and SWEEP will between the goals of advancing electrification and other priorities, such as the overall reliability of service. This is not

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<sup>14</sup> 4 Colo. Code Regs. § 723-1:1401(c).

<sup>15</sup> UCA Notice of Intervention at 2–3 ¶ 3 (Apr. 21, 2026).

surprising, as the UCA understandably has different interests and goals in this proceeding than Rewiring America and SWEEP’s interests and goals. When parties to a proceeding do not have identical interests—which is the case here—there typically is not adequate representation and intervention should ordinarily be allowed.<sup>16</sup>

13. Moreover, even if the UCA’s interests were closely aligned with Rewiring America and SWEEP’s interests, the UCA would nonetheless not adequately represent the non-profit organizations’ interests. As courts have explained, when a government agency such as the UCA is obligated to consider a broad spectrum of views, it is “on its face impossible for [the] government agency to carry the task of protecting the public’s interests and the private interests of a prospective intervenor.”<sup>17</sup> This common-sense conclusion should also apply to Commission proceedings.<sup>18</sup> The UCA has a statutory mandate to “represent the public interest and, to the extent consistent therewith, the specific interests

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<sup>16</sup> See *Cherokee Metro. Dist. v. Meridian Serv. Metro. Dist.*, 266 P.3d 401, 407 (Colo. 2011); see also *O’Hara Grp. Denver, Ltd. v. Marcor Hous. Sys., Inc.*, 595 P.2d 679, 688 (Colo. 1979) (A movant “should be allowed to participate if it appears that all of its interests may not be adequately represented by those already parties to th[e] lawsuit.”); *City of Thornton v. Bd. of Cty. Comm’rs of Larimer*, No. 2019 CV 30339, 2019 WL 3228258, at \*9–10 (Larimer Cty. Dist. Ct. July 16, 2019) (County representation of environmental groups was inadequate when it was unclear if County “would raise the same arguments”). Intervention under Rule 1401(c) is informed by the case law regarding intervention in state courts under the Colorado Rules of Civil Procedure. See, e.g., *In re 2019 Rules of Practice and Procedure Amendments*, Proceeding No. 19R-0483ALL, Decision No. R19-1022 at 26–29, ¶¶ 105–12 (Dec. 23, 2019); *In re 2012 Rules of Practice and Procedure Amendments*, Proceeding No. 12R-500ALL, Decision No. C13-0442 at 18–19, ¶¶ 42–45 (Apr. 16, 2013).

<sup>17</sup> *WildEarth Guardians v. Nat’l Park Serv.*, 604 F.3d 1192, 1200 (10th Cir. 2010) (quoting *Utahns for Better Transp. v. U.S. Dep’t of Transp.*, 295 F.3d 1111, 1117 (10th Cir. 2002)) (internal quotation marks omitted); see also *Colo. Mining Ass’n v. Urbina*, No. 11CV2044, at \*2–3 (Denver City & Cty. Dist. Ct. Nov. 18, 2011) (citing *WildEarth Guardians*, 604 F.3d at 1200; *Utahns for Better Transp.*, 295 F.3d at 1117) (“[A] government entity typically cannot adequately represent the interests of a private organization.”).

<sup>18</sup> In addition to state case law, the Commission has looked to federal case law to inform its decisions on procedural matters. See, e.g., *In re 2019 Rules of Practice and Procedure Amendments*, Proceeding No. 19R-0483ALL, Decision No. R19-1022 at 11–12, ¶¶ 39–40.

of residential consumers, agricultural consumers, and small business consumers.”<sup>19</sup> The UCA thus has a broad public interest mandate that is distinct from Rewiring America and SWEEP’s discrete electrification and decarbonization interests in this case. Accordingly, the UCA cannot adequately represent Rewiring America and SWEEP’s interests.

14. In addition, the fact that the UCA often takes opposing positions to SWEEP in Commission proceedings belies any presumption that the UCA might adequately represent Rewiring America and SWEEP’s interests in Public Service’s Large Load Tariff.<sup>20</sup> This fact demonstrates that not only does the UCA not have identical interests to Rewiring America and SWEEP, the UCA very often has opposing interests. Given this background, there is nothing in the UCA’s intervention notice that should lead the Commission to conclude that the UCA’s interests in this case are identical or similar to Rewiring America and SWEEP’s interests.

15. For similar reasons, the Colorado Energy Office (CEO) also cannot adequately represent Rewiring America and SWEEP’s interests in Public Service’s Large Load Tariff. CEO is also a government agency with a broad public interest mandate that is distinct from SWEEP’s discrete electrification and decarbonization interests in this case. Notably, CEO itself has disclaimed its ability to represent any other organizations’ interests. In its filings regarding amendments to Rule 1401, CEO stated that it “does not

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<sup>19</sup> Colo. Rev. Stat. § 40-6.5-104(1).

<sup>20</sup> See, e.g., *In re Black Hills 2024–2028 Clean Heat Plan*, Proceeding No. 23A-0633G, SWEEP Statement of Position (Sept. 20, 2024) (the UCA joined a settlement agreement that SWEEP opposed); *In re Pub. Serv. 2022 DSM and Beneficial Electrification Strategic Issues*, Proceeding No. 22A-0309EG, Justin Brant Cross-Answer Test. 4:1–7:3 (Jan. 19, 2023) (opposing the UCA’s proposed energy savings goals); *In re Black Hills 2022–2024 DSM Plan*, Proceeding No. 21A-0166E, SWEEP Statement of Position at 18–19 (Oct. 29, 2021) (opposing the UCA’s proposal to implement a penalty mechanism for DSM underperformance); *In re Pub. Serv. 2021–2023 Transp. Electrification Plan*, Proceeding No. 20A-0204E, SWEEP Statement of Position at 17–19 (Dec. 11, 2020) (opposing the OCC’s proposal to limit utility ownership of electric vehicle supply infrastructure).

and cannot represent the interests of any other organization before the Commission.”<sup>21</sup> CEO explained that although “protecting the environment is one of its many statutory duties,” CEO “exists within the Office of the Governor, its positions are based on balancing multiple public policy considerations that are important to the administration and therefore CEO cannot serve to represent the interests of any other group or organization.”<sup>22</sup> This is precisely why courts have ruled it is impossible for an agency to adequately represent a private intervenor’s interests, and why the Commission should reach the same conclusion here.<sup>23</sup>

### **III. Rewiring America and SWEEP’s participation will advance the just resolution of this proceeding.**

16. Rule 1401(c) also requires an intervention motion to state why the movant “is positioned to represent [its] interest in a manner that will advance the just resolution of the proceeding.”<sup>24</sup> Rewiring America and SWEEP’s participation will advance the just resolution of this proceeding because they have unique perspectives and expertise regarding beneficial electrification, demand response, and energy efficiency. These issues and perspectives are key to this Large Load Tariff proceeding. Rewiring America and SWEEP will therefore provide meaningful and significant information to the Commission on issues directly related to Public Service’s Large Load Tariff.

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<sup>21</sup> *In re Amendments to Rules of Practice and Procedure*, Proceeding No. 19R-0483ALL, Colo. Energy Office Appl. for Rehearing, Reargument, or Reconsideration at 3 (Apr. 20, 2020).

<sup>22</sup> *Id.*; *In re Amendments to Rules of Practice and Procedure*, Proceeding No. 19R-0483ALL, Colo. Energy Office Initial Comments at 13 (Oct. 18, 2019); *see also In re Amendments to Rules of Practice and Procedure*, Proceeding No. 19R-0483ALL, Colo. Energy Office Exceptions to Recommended Decision at 11 (Jan. 13, 2020) (“CEO represents the governor and not any nongovernmental organization.”).

<sup>23</sup> *See supra* ¶ 13.

<sup>24</sup> 4 Colo. Code Regs. § 723-1:1401(c).

17. Rewiring America and SWEEP's participation in this proceeding will not unduly broaden the issues or delay the proceeding. In addition, Rewiring America and SWEEP are committed to coordinating with other parties where possible to avoid duplicative presentation of issues.

18. Rewiring America and SWEEP do not currently know the full extent and nature of evidence they will bring forward in this proceeding, and they reserve the right to present evidence to further their interests based on the subsequent discovery and testimony in this proceeding. In general, Rewiring America and SWEEP plan to ensure that the Large Load Tariff adequately protects other customers from rate increases caused by data centers, that data centers in Colorado are powered by clean energy, and that data centers are operated in a manner that maximizes benefits to the grid. Rewiring America and SWEEP plan to recommend several improvements to Public Service's proposal, such as new and expanded demand response, virtual power plant, distributed energy resource programs, and the Clean Transition Tariff. In short, Rewiring America and SWEEP believe the Commission should improve Public Service's Large Load Tariff proposal, and they plan to recommend various modifications and improvements to the proposal.

19. Intervening as a party in this case is necessary for Rewiring America and SWEEP to further their tangible interests. Discovery, expert testimony, and cross-examination are necessary for Rewiring America and SWEEP to adequately evaluate the details of the Company's proposals, and to recommend improvements. More limited participation in this matter through public comment or as *amicus curiae* would be insufficient and would unreasonably limit Rewiring America and SWEEP's ability to further their interests.

## ENTRY OF APPEARANCE

20. Pursuant to Rule 1201(c), undersigned counsel, Michael Hiatt and Emma Hardy, with Earthjustice enter their appearances on behalf of Rewiring America and SWEEP.<sup>25</sup> Undersigned counsel has previously appeared before this Commission and are familiar with, and will abide by, the Commission's Rules.

21. Rewiring America and SWEEP request that copies of all notices, pleadings, testimony, correspondence, discovery, and other documents be served electronically upon the following individuals:

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<sup>25</sup> 4 Colo. Code Regs. § 723-1:1201(c).

## NOTICE OF FINANCIAL DISCLOSURE

22. Pursuant to Colorado Revised Statutes § 40-2-104.5, Rewiring America and SWEEP hereby provide this notice of financial disclosure.

23. Within the past twenty-four months, Public Service contributed \$15,000 to SWEEP to help fund two annual utility energy efficiency workshops presented by SWEEP. These workshops were open to representatives of utilities and partner organizations in the Southwest at no cost. None of the funding provided by Public Service supported SWEEP's operating expenses or salaries.

### CONCLUSION

24. The Commission's decision in this case regarding Public Service's Large Load Tariff will directly affect Rewiring America and SWEEP's tangible interests. No other party can adequately represent Rewiring America and SWEEP's interests. Rewiring America and SWEEP therefore request the Commission grant their Motion to Intervene, and that they be allowed to participate with full rights as a party to this proceeding.

Dated May 21, 2026.

*/s/ Michael Hiatt*

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