

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 24A-0296E

IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO FOR APPROVAL OF ITS 2025-2027 WILDFIRE MITIGATION PLAN, WILDFIRE MITIGATION ADJUSTMENT, PUBLIC SAFETY POWER SHUTOFF PLAN, AND THE RECOVERY OF ITS 2023 WILDFIRE MITIGATION PLAN DEFERRAL.

**INTERIM COMMISSION DECISION DEEMING
APPLICATION COMPLETE; SETTING MATTER FOR
HEARING *EN BANC*; GRANTING INTERVENTIONS;
SCHEDULING A PREHEARING CONFERENCE;
REQUIRING CONFERRAL AND FILING OF A
PROPOSED PROCEDURAL SCHEDULE; AND
ADDRESSING INFORMATION TO BE PRESENTED IN
SUPPLEMENTAL DIRECT**

Issued Date: August 12, 2024
Adopted Date: August 7, 2024

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I. BY THE COMMISSION**A. Statement**

1. By this Decision, the Commission deems complete and sets for hearing before the Commission *en banc* the Application of Public Service Company of Colorado (“Public Service” or the “Company”) filed on June 27, 2024, which requests the Commission approve the Company’s proposed 2025-2027 Wildfire Mitigation Plan (“WMP”).

2. The Commission grants the requests for permissive intervention filed by the City of Boulder (“Boulder”), Colorado Energy Consumers (“CEC”), Climax Molybdenum Company (“Climax”), Comcast Cable Communications Management, LLC (“Comcast”), the Colorado Solar and Storage Association (“COSSA”) and the Coalition for Community Solar Access (“CCSA”) (jointly, “COSSA/CCSA”), the City and County of Denver (“Denver”), and Western Resource Advocates (“WRA”). The Commission acknowledges the notices of intervention of right filed by Staff of the Colorado Public Utilities Commission (“Staff”) and the Utility Consumer Advocate (“UCA”).

3. We also schedule a prehearing conference to establish a schedule for this proceeding. We further direct the parties to confer on a proposed schedule, which Public Service shall file on or before August 29, 2024, as discussed below.

B. Background

4. Public Service presented its first WMP proposal as part of Proceeding No. 19AL-0268E, which was its 2019 electric rate case. As part of the resolution of that proceeding, the Commission approved without modifications a wildfire-specific settlement agreement that

authorized certain base rate recovery but also committed Public Service to file an application for a comprehensive WMP on or before August 1, 2020.¹

5. Public Service filed its 2020 WMP on July 17, 2020, in Proceeding No. 20A-0300E. The 2020 WMP included proposed actions covering the period 2021-2025, including enhanced inspections, equipment repair and replacement, vegetation management, and other activities. By Recommended Decision No. R21-0109,² the Administrative Law Judge (“ALJ”) approved the Company’s proposed WMP as in the public interest, but rejected the Company’s request for current rider recovery and authorized deferred accounting treatment through 2023—decisions that were upheld by the Commission through Decision No. C21-0237.³

6. Subsequently, by Decision No. C23-0791, issued November 29, 2023, the Commission denied a motion by Public Service seeking to extend the deferred accounting mechanisms associated with the 2020 WMP for a further year. The Commission explained that the Company should continue its wildfire mitigation work and should provide sufficient justification for any cost recovery it requests when it files a new WMP.

7. On April 6 and 7, 2024, the Front Range experienced high winds and for the first time in Colorado, Public Service proactively deenergized certain electric distribution lines, resulting in shutoffs impacting approximately 55,000 customers across six counties.⁴ The Commission opened Proceeding No. 24M-0173E, by which it sought information regarding the Company’s operational actions and decision-making, customer communications activities, and community engagement efforts.⁵ By Decision No. C24-0400,⁶ the Commission clarified that

¹ Proceeding No. 19AL-0268E, Decision No. C20-0096, issued February 11, 2020.

² Issued February 26, 2021.

³ Issued April 16, 2021.

⁴ Proceeding No. 24M-0173E, Decision No. C24-0232, issued April 15, 2024, at ¶¶ 1-4.

⁵ *Id.* at ¶ 6.

⁶ Issued June 11, 2024.

Proceeding No. 24M-0173E would serve the purpose of securing standards for proactive de energization events, otherwise known as Public Safety Power Shutoffs (“PSPS”), for approximately nine months, or until such time as a final Commission decision is issued in Public Service’s upcoming WMP.

C. Application for Approval of 2025-2027 WMP

8. On June 27, 2024, Public Service filed this Application, supported by the direct testimony of 19 witnesses and including a 2025-2027 WMP and a PSPS Plan.⁷ Public Service also filed a Motion for Commission Approval of Alternative Form of Notice.

9. First, Public Service seeks approval of its 2025-2027 WMP, including its proposed mitigation activities, scopes of work, and budget proposals. The proposed WMP includes an updated risk assessment which results in an expanded, three-tier wildfire risk map. The Company also presents four categories of work—situational awareness, system resiliency, operational mitigations, and customer support—for which investments are prioritized based on a quantitative risk assessment and other approaches. Among the situational awareness and mitigation activities the Company intends to invest in include use of artificial intelligence, vegetation management, targeted undergrounding, inspections with repair or replace programs for distribution and transmission equipment, Enhanced Powerline Safety Settings, targeting of resiliency rebates to customers with certain medical equipment, and creation of a new Wildfire Command Center.

10. Public Service states that it has invested over \$500 million in wildfire mitigation since 2020. The 2025-2027 WMP includes a projected budget of approximately \$1.9 billion, comprised of approximately \$1.6 billion in capital investments—largely focused on system resiliency—and approximately \$250 million in operations and maintenance.

⁷ Attachments AZS-1 and VAR-1.

11. Second, Public Service specifically seeks approval of its proposed PSPS Plan, which is included within the operational mitigations category of the WMP. The PSPS Plan defines the conditions under which Public Service would proactively de-energize portions of the distribution and/or transmission system when there is imminent and significant risk of severe fire conditions. The PSPS Plan addresses Public Service's decision-making process as well as timelines for notification to entities such as state officials and offices of emergency management ("OEMs"), along with restoration protocols.

12. Third, Public Service seeks approval of its proposed cost recovery mechanism. Arguing that its business and financial risk profiles are affected by wildfire risk, it proposes to recover transmission costs through the Transmission Cost Adjustment ("TCA") consistent with previous approvals, but further seeks approval of a Wildfire Mitigation Adjustment ("WMA") rider that would be adjusted twice annually based on forecast and actual costs. It further seeks approval to recover the remaining deferred balance from its 2020 WMP.

13. Finally, Public Service proposes to track and defer costs incurred in association with preparing and litigating this proceeding in a noninterest bearing regulatory asset to be reviewed for recovery purposes in a future rate proceeding. Public Service also requests to revise its tariffs to implement its proposals.

D. Procedural History

14. The Commission issued a Notice of Application filed on June 27, 2024. The Notice set a 30-day intervention period that ran through July 29, 2024.

15. On July 9, 2024, the Commission issued Decision No. C24-0488-I, granting Public Service's Motion for Alternative Form of Notice.

16. On July 11, 2024, UCA filed a Notice of Intervention of Right. On July 31, 2024, Staff filed a Notice of Intervention of Right.

17. On July 22, 2024, WRA filed a Motion for Permissive Intervention.

18. On July 23, 2024, Denver filed a Motion for Permissive Intervention.

19. On July 26, 2024, Boulder filed a Motion for Permissive Intervention.

20. On July 29, 2024, Climax, CEC, COSSA/CCSA, and Comcast filed motions for permissive intervention.

21. On August 7, 2024, at the Commissioners' Weekly Meeting, the Commissioners agreed to establish an additional notice and intervention period as a courtesy to encourage increased participation in the proceeding. The Commission will issue a separate decision establishing the additional notice and intervention period contemporaneous with this decision.

E. Completeness

22. The Commission finds the Application addresses all applicable Commission Rules and is therefore deemed complete for purposes of § 40-6-109.5, C.R.S.

F. *En Banc* Hearing

23. The Commission finds good cause to set the Application for hearing before the Commission *en banc*. This Application has potentially significant impacts to customers' rates and includes major policy questions related to health and safety, including the practices under which an electric utility may proactively deenergize distribution and transmission equipment due to risk of wildfire. Particularly given that the Commission has previously been investigating these issues through Proceeding No. 24M-0173E *en banc*, an evidentiary hearing before the Commission will be the most efficient way to navigate this proceeding.

G. Interventions and Parties to Proceeding

24. UCA and Staff filed timely notices of intervention by right. Staff and UCA detailed several issues they plan to address, and both request a hearing. Pursuant to Rule 4 *Code of Colorado Regulations* (“CCR”) 723-1-1401(b) of the Commission’s Rules of Practice and Procedure, no decision is required in response to appropriately filed notices of intervention by right. We acknowledge the notices of intervention by right, and UCA and Staff are parties to this Proceeding.

25. The following parties filed timely requests for permissive intervention: Boulder, CEC, Climax, Comcast, COSSA/CCSA, Denver, and WRA.

26. WRA, a nonprofit conservation organization, has financial supporters who live in Colorado and are customers of Public Service. WRA articulates that it has a pecuniary interest in this proceeding based on its interest in protecting the environment by reducing greenhouse gas emissions from the electric generation sector, and states the Company’s Application will directly impact: (1) the protection of land, water, and air in Colorado, due to the mitigation of wildfires and their impacts; (2) carbon dioxide emissions from the electricity sector; and (3) carbon dioxide emissions from the transportation and natural gas distribution sectors.

27. Denver is a large customer of Public Service and its citizens are customers of Public Service. Denver states therefore it and its citizens have a pecuniary interest in this Proceeding. Denver explains it has a direct interest in distribution system planning and its associated costs as these have a direct impact on the cost of utility service and infrastructure siting needs for the City and property owners.

28. Boulder is a large customer of Public Service and is identified as a high-risk region in the Company’s updated wildfire risk map. Boulder states the issues discussed in this Proceeding,

including the PSPS Plan, will directly impact its ability to sustain operations at critical facilities and to continue to provide emergency services to residents and businesses.

29. Climax operates molybdenum mines near Leadville and Empire, Colorado and is one of Public Service's largest customers. Climax states Public Service's proposed cost recovery mechanics, including the proposed WMA, will have direct impacts on the cost and reliability of Climax's electricity service that is necessary for mining and milling molybdenum.

30. CEC is an unincorporated association of corporate entities who purchase electricity and related energy services from the Company. CEC states its members are all large commercial and industrial electric customers and asserts it has a direct, tangible, and pecuniary interest in this proceeding because if the plan is approved, it would have a direct and substantial impact on CEC members' electric rates.

31. COSSA and CCSA are non-profit entities representing solar power and energy storage providers in Colorado. COSSA/CCSA assert there will be direct impacts from Public Service's tariff proposals on the business interests of COSSA/CCSA's members. COSSA/CCSA state a pecuniary interest in the proceeding on behalf of their members whose business interests will be impacted by the Company's plan and assert a specific interest in the Company's proposed battery energy storage systems ("BESS") rebate plan.

32. Comcast is a communications and information services provider in Colorado, with its service territory substantially overlapping with Public Service's service territory. Comcast is a large electric customer of Public Service and indicates specific interest in Public Service's proposed undergrounding, pole-replacement, vegetation management, and PSPS communications projects and it will be significantly impacted by the capital cost and expenses associated with these

projects, the costs Comcast may incur to adapt to the proposals, and the impact that these proposals will have on electric rates.

33. Rule 1401(c) of the Commission's Rules of Practice and Procedure, 4 CCR 723-1, requires persons seeking permissive intervention to show the following, in pertinent part:

A motion to permissively intervene shall state the specific grounds relied upon for intervention; the claim or defense within the scope of the Commission's jurisdiction on which the requested intervention is based, including the specific interest that justifies intervention; and why the filer is positioned to represent that interest in a manner that will advance the just resolution of the proceeding. The motion must demonstrate that the subject proceeding may substantially affect the pecuniary or tangible interests of the movant (or those it may represent) and that the movant's interests would not otherwise be adequately represented.

34. We find that each entity seeking permissive intervention has sufficiently demonstrated that this Proceeding may substantially affect its pecuniary or tangible interests, as is required by Rule 1401(c). Each has also demonstrated that its interests would not otherwise be adequately represented. Therefore, we grant the requests for permissive intervention.

35. The parties to this Proceeding are: Public Service, Staff, UCA, Boulder, CEC, Climax, Comcast, COSSA/CCSA, Denver, and WRA.

H. Supplemental Direct Testimony

36. Given the scale of this WMP in terms of anticipated costs, as well as its potential health and safety implications and the possibility for interactions across state and local emergency operations agencies, we direct Public Service to file supplemental direct testimony addressing the following requests:

- a. Provide a 20-year rate forecast model, in executable format and as close to possible as the tool presented at the July 25, 2024 Commissioners' Information Meeting in Proceeding No. 24M-0003ALL, with the following variations:

- i. Incorporating no 2025-2027 WMP investments.
- ii. Incorporating all 2025-2027 WMP investments.
- iii. Incorporating the Company's five-year capital budget projections for Colorado from the Company's latest investor presentation. For the period after that five years, the forecast should be based on long-term earnings per share or dividend growth targets that the Company is committing to meet in its investor presentation.
- iv. Incorporating the assumption that the Company securitizes the costs of the 2025-2027 WMP, and anticipated future WMP investments, over a 25-year period and at a 4 percent securitized interest rate.

37. We may include further direction by a future decision.

I. Conferral on Procedural Schedule

38. Public Service has presented a sweeping Application, both in coverage and in cost. It states the amount of its service territory that is covered by the wildfire risk map has doubled, and it has expanded its investments in existing wildfire mitigation activities as well as increased the types of mitigation activities it is proposing. However, the Application provides limited information about certain issues that are significant to the Commission, which is tasked with regulating utilities so that they can maintain safe, reliable power. The Commission endeavors to have as full an opportunity as possible to determine if certain issues are relevant to the resolution of this Proceeding: for example, the relationship of Public Service's proposals for de energization and restoration, and outreach to potentially vulnerable customers, to actions implemented by state and local OEMs, which are experts in emergency management including not only wildfire but also other natural and human-caused disasters. We are concerned that these issues may not be fully vetted in the absence of unique expertise from OEMs, critical facilities such as hospitals, and other affected individuals or entities.

39. We direct Public Service to confer with the intervening parties established by this Decision regarding an appropriate procedural schedule. We also direct Public Service to file on or before August 29, 2024, a motion for approval of a proposed procedural schedule or a report explaining the results of the conferral and the Company's proposed procedural schedule. As previously discussed, the procedural schedule should incorporate a timeline for supplemental direct testimony.

40. To facilitate efficient case management, and animated by the concerns we state above, we also direct the Parties to incorporate certain activities or appropriate placeholders into the proposed consensus procedural schedule, for our consideration in a future decision. First, the Parties should include a recommendation as to whether at least two public comment hearings should be held, with one being held in advance of answer testimony and one being held in advance of the evidentiary hearing. To the extent possible, Parties should address the date and time (including whether an after-hours hearing would be desirable), and format (virtual or in-person, and if in-person, whether the Commission's offices are appropriate), of public comment hearing(s).

41. Second, we request that the Parties' schedule include at least one option for a technical conference for purposes of demonstrating software and/or tools—and in particular, the Company's Technosylva software and refined, public-facing outage map—in advance of the evidentiary hearing. The Parties should propose an initial scope for the demonstration and recommended functionalities to be demonstrated. Finally, in this filing, the Company should address whether it waives any statutory timelines to accommodate these activities.

42. Given the Commission's extraordinarily busy schedule, we see fit to schedule a remote prehearing conference for September 11, 2024, from 11:00 a.m. until no later than

12:30 p.m. A request for approval of a proposed schedule may include a request to vacate the prehearing conference at the preceding Commission Weekly Meeting.

43. In the event additional motions for permissive intervention are filed after the date of this decision, the Commission will address those motions in a separate decision consistent with the discussion above.

II. ORDER

A. The Commission Orders That:

1. For purposes of § 40-6-109.5, C.R.S., the Commission deems complete the Application for approval of the 2025-2027 Wildfire Mitigation Plan (“Application”) filed by Public Service Company of Colorado (“Public Service”) on June 27, 2024, and sets the matter for hearing before the Commission *en banc*.

2. The motion for permissive intervention filed on July 22, 2024, by Western Resource Advocates (“WRA”) is granted, consistent with the discussion above.

3. The motion for permissive intervention filed on July 23, 2024, by the City and County of Denver (“Denver”) is granted, consistent with the discussion above.

4. The motion for permission to intervene filed on July 26, 2024, by the City of Boulder (“Boulder”) is granted, consistent with the discussion above.

5. The motion to intervene permissively filed on July 29, 2024, by Climax Molybdenum Company (“Climax”) is granted, consistent with the discussion above.

6. The motion to permissively intervene filed on July 29, 2024, by Colorado Energy Consumers (“CEC”), is granted, consistent with the discussion above.

7. The joint motion to intervene filed on July 29, 2024, by the Colorado Solar and Storage Association (“COSSA”) and the Coalition for Community Solar Access (“CCSA”), is granted, consistent with the discussion above.

8. The motion to permissively intervene filed on July 29, 2024, by Comcast Cable Communications Management, LLC (“Comcast”), is granted, consistent with the discussion above.

9. Public Service, Staff of the Colorado Public Utilities Commission, the Utility Consumer Advocate, Boulder, CEC, Climax, Comcast, COSSA/CCSA, Denver, and WRA are parties to this Proceeding.

10. Consistent with the discussion above, Public Service shall confer with the parties to develop a proposed procedural schedule, including a date for an *en banc* hearing and incorporating other directions. Public Service shall file a motion for approval of a proposed procedural schedule, or a report explaining the results of the conferral and the Company’s proposed procedural schedule, on or before August 29, 2024.

11. We schedule a remote prehearing conference as follows:

DATE: September 11, 2024

TIME: 11:00 p.m. until no later than 12:30 p.m.

PLACE: Join by video conference using Zoom at a link to be provided to parties by email.

12. This Decision is effective immediately on its Issued Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
August 7, 2024.**

(S E A L)



ATTEST: A TRUE COPY

Rebecca E. White,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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TOM PLANT

Commissioners