

Decision No. C22-0583-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 22V-0388E

IN THE MATTER OF THE PETITION OF PUBLIC SERVICE COMPANY OF COLORADO FOR APPROVAL OF A VARIANCE FROM RULE 3615 RELATED TO MODIFYING EXISTING AGREEMENTS TO ACQUIRE MORE THAN 30 MW OF CAPACITY OUTSIDE OF AN APPROVED RESOURCE PLAN.

**INTERIM COMMISSION DECISION ESTABLISHING
PARTIES AND REQUIRING FILING OF PROPOSED
PROCEDURAL SCHEDULE**

Mailed Date: September 29, 2022

Adopted Date: September 28, 2022

I. BY THE COMMISSION

A. Statement

1. On September 2, 2022, Public Service Company of Colorado (Public Service or Company) filed a petition for a partial variance or a waiver from subparagraph 3615(a)(VI) of the Commission's Electric Resource Planning (ERP) Rules, 4 *Code of Colorado Regulations* (CCR) 723-3-3600, *et seq.*

2. This Decision establishes the parties to this Proceeding and requires Public Service to confer with them on a proposed procedural schedule. The Company is further directed to file the proposed procedural schedule no later than noon on October 4, 2022.

B. Discussion

3. In its petition, Public Service states the requested partial variance or waiver from Rule 3615(a)(VI) is necessary to enable the addition of more than 30 MW of nameplate solar capacity to two existing Power Purchase Agreements (PPAs) originally approved by

the Commission as part of the Company's Colorado Energy Plan Portfolio (CEPP). The Company argues that the requested variance is critical to serving the Company's customers and meeting its resource adequacy needs in 2023 and 2024 as it will result in 123 MW of additional nameplate solar capacity at a cost-effective price for customers.

4. Public Service argues that good cause exists to grant the petition due to the failure of certain projects approved in the CEPP, the United States Department of Commerce's investigation into solar panel imports from Southeastern Asia, the risk facing two additional projects approved as part of the CEPP, and the Company's resource adequacy needs in 2023 and 2024.

5. By Decision No. C22-0532-I, issued on September 8, 2022, the Commission established a shortened notice and intervention period for the petition. Requests for intervention were due no later than September 21, 2022.

6. Staff of the Colorado Public Utilities Commission (Staff) timely filed a notice of intervention of right on September 20, 2022. Staff states that it is currently not able to state whether it supports the petition and therefore requests a hearing in this matter. Staff explains that Public Service has not proposed how changes to the PPAs requiring the waiver "would be incorporated into the [Request for Proposals] that will be issued in Phase II of the Company's 2021 Electric Resource Plan/Clean Energy proceeding," likely asking whether the resource need for the upcoming solicitation in Proceeding No. 21A-0141E will be reduced as a result of the modified PPAs from the CEPP. Staff further states that Public Service has not provided any analysis or estimate of rate impacts or impact on the reserve margin in the upcoming summers considering the delays in the commercial operation dates of previously bid facilities.

7. The Colorado Office of the Utility Consumer Advocate (UCA) also timely filed a notice of intervention of right on September 21, 2022. UCA states that it also has potential concerns regarding the cost of the additional solar capacity being added in the amended PPAs and the potential rate impacts and reserve margin requirements. UCA further explains that it supports establishing a mutually agreeable, accelerated schedule to resolve the issues in this Proceeding on an expedited basis.

8. Also on September 21, 2022, a motion for leave to intervene was filed by Neptune Solar, LLC (Neptune) and Thunder Wolf Solar, LLC (Thunder Wolf). The motion states that Neptune and Thunder Wolf are the entities that renegotiated the PPAs that are the subject of this Proceeding. The motion further explains that Public Service proposes to purchase electricity generated by Neptune, a 250 MW solar farm with 125 MW of battery storage, and Thunder Wolf, a 200 MW solar farm with 100 MW of battery storage, and that Public Service requires that the petition be granted by the Commission to effectuate additional purchases of solar power from Neptune and Thunder Wolf.

C. Findings and Conclusions

9. We grant the motion for leave to intervene filed by Neptune and Thunder Wolf.

10. The parties in this Proceeding include Public Service, Staff, UCA, Neptune, and Thunder Wolf.

11. We find good cause to address the petition on an expedited basis as requested by Public Service. To that end, we have reserved Friday, November 18, 2022 for a hearing in this matter before the Commission *en banc*.

12. We direct Public Service to confer with the intervening parties to develop a proposed procedural schedule with a hearing on November 18, 2022.

13. Public Service shall file the proposed procedural schedule no later than noon on October 4, 2022.

II. ORDER

A. It Is Ordered That:

1. The motion for leave to intervene filed by Neptune Solar, LLC (Neptune) and Thunder Wolf Solar, LLC (Thunder Wolf) on September 21, 2022 is granted.

2. The parties to this proceeding are Public Service Company of Colorado (Public Service), Staff of the Colorado Public Utilities Commission, the Colorado Office of the Utility Consumer Advocate, Neptune, and Thunder Wolf.

3. Public Service shall confer with the intervening parties to develop a proposed procedural schedule with a hearing on November 18, 2022, consistent with the discussion above.

4. Public Service shall file the proposed procedural schedule no later than noon on October 4, 2022.

5. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
September 28, 2022.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ERIC BLANK

JOHN GAVAN

MEGAN M. GILMAN

Commissioners