

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 21A-0141E

IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO FOR APPROVAL OF ITS 2021 ELECTRIC RESOURCE PLAN AND CLEAN ENERGY PLAN.

**INTERIM COMMISSION DECISION GRANTING
MOTION TO INITIATE STAGE 2 PRICING RELIEF
PROCESS WITH ADDITIONAL DIRECTIVES**

Issued Date: August 12, 2025

Adopted Date: August 6, 2025

I. BY THE COMMISSION

A. Statement

1. Through this Decision, we grant the Motion to Initiate Stage 2 Price Relief Process (“Motion”) that Public Service Company of Colorado (“Public Service” or the “Company”) filed on July 15, 2025.

B. Discussion

2. On January 14, 2025, the Commission issued Decision No. C25-0024, granting, in part, and denying, in part, the Clean Energy Plan (“CEP”) Delivery Motion. In Decision No. C25-0024, the Commission approved, among other things, a process by which developers could seek price relief based on changes of federal law. This was intended to encourage developers to move forward with projects even though future tariffs or changes to tax credits might impact the projects’ financials.¹

¹ Decision No. C25-0024, issued January 14, 2025, ¶ 72.

3. Under the CEP Deliver Decision, the Stage 2 process would be initiated by a motion filed by the Company, Staff, or by the Commission on its own motion, describing the change in law and explaining why Stage 2 relief is appropriate. Activation of Stage 2 by the Commission must occur, and any requests for relief must be completed through submittal to the independent auditor (“IA”) no later than December 31, 2025, or 18 months prior to the project’s commercial operation date (“COD”), whichever is later. Parties may, however, petition for an extension as necessary.²

4. After considering responses to the motion for Stage 2 activation, the Commission would determine whether to initiate a Stage 2 relief process. Bidders would be required to submit requests and documentation to the IA within 30 days of any Commission decision approving Stage 2 relief.³ After the IA makes its verification, it would then submit all materials to the Commission. Intervenors will have 21 days to review the IA’s initial determination. Public Service and any impacted developer would then have seven days to file response comments. The IA’s determination would not go into effect until the Commission decision, which would be issued in due course.⁴

5. Stage 2 relief would provide up to a 15 percent total price increase, inclusive of any prior approved increase in Stage 1.⁵ In the event the Commission or the IA rejects all or a portion of a requested and verified Stage 2 increase, a project with an executed PPA would be able to terminate the PPA and receive a 75 percent refund of its Security Fund under Article 11 of the Model PPA if it so elects within 14 days of the Commission decision.⁶ However, if a developer

² CEP Delivery Decision, ¶ 76.

³ CEP Delivery Decision, ¶ 60; *see also* Hr. Ex. 166, Ihle Testimony, p. 53.

⁴ CEP Delivery Decision, ¶ 75.

⁵ CEP Delivery Decision, ¶ 61.

⁶ CEP Delivery Decision, ¶¶ 62, 78.

establishes to the Commission's satisfaction that there is a change of law that exceeds the 15 percent cap, developers are allowed to terminate their PPAs and recover 100 percent of their security payments.⁷

6. In the Motion, Public Service asserts that numerous new tariff actions have been announced since the CEP Delivery Decision. Public Service specifically lists out the following executive orders:

- Imposing tariffs on Mexico and Canada on February 1, 2025, which were paused on February 3 and then reinstituted on March 4;
- Imposing tariffs on China on February 4, 2025, which were increased on March 4 and further increased on April 2 and 10; and
- A blanket imposition of tariffs issued on April 2, 2025, referred to as Liberation Day, on all imports with additional tariffs for those countries with a trade deficit with the United States.⁸

7. Public Service further notes the Reconciliation Bill that Congress passed on July 3, 2025, that advances the sunset date of the federal investment and production tax credits for certain renewable projects. The Company also references the recent executive order requiring the Internal Revenue Service to review the guidance related to qualifying for the renewable energy tax credits.

8. The Company represents that on May 16, 2025, a developer of a storage project provided notice pursuant to its power purchase agreement ("PPA") that a Specified Change in Law event had occurred with respect to the project. Public Service adds that since that time other bidders have also notified the Company they may also require Stage 2 relief, but no other formal requests have been received. For administrative efficiency, the Company asks that Stage 2 relief be

⁷ CEP Delivery Decision, ¶ 80.

⁸ Motion, p. 3.

available to “any and all developers pursuant to the Commission-approved process set forth in Decision No. C25-0024.”⁹

9. Regarding conferral, Public Service represents that independent power producer trade associations support the Motion to Initiate Stage 2, and no party that responded to the conferral has expressed opposition at this time.¹⁰

10. As an initial matter, we note that no party responded to the Motion, and the time for doing so has passed. As such, the Motion appears to be unopposed.

11. The Commission grants the Motion to Initiate Stage 2, including the Company’s request that Stage 2 relief be available to all developers, regardless of whether they have formally notified Public Service that they need Stage 2 price relief. As contemplated by the CEP Decision, the Company’s Motion “describe[es] the change in law and explain[es] why Stage 2 relief is appropriate.”¹¹ Moreover, given the uncertainties that have developed over the past year, we acknowledge the need to be as fast and flexible as possible. The Stage 2 price relief process that we approved in the CEP Delivery Decision should help ensure that resources from the 2021 ERP/CEP can move forward quickly with appropriate regulatory oversight, even in the face of rising cost pressures.¹²

12. Although we grant the Motion, we are concerned that the 30-day deadline for bidders to submit documentation to the IA may be too aggressive. Especially considering the Secretary of Treasury may release additional guidance regarding the expiration of tax credits on

⁹ Motion, p. 4.

¹⁰ Motion, pp. 1-2.

¹¹ CEP Delivery Decision, ¶ 60.

¹² Although it is not in the record in this Proceeding, we note the Stage 2 price relief process we approved in the CEP Delivery Decision aligns with the letter that Governor Jared Polis issued on August 1, 2025, addressing the Stage’s commitment to prioritizing the deployment of affordable clean energy.

August 18, 2025, the Commission will be flexible on the 30-day deadline, as appropriate and requested.

13. In addition, to further our goal of responding quickly and flexibly to the various changes that are impacting the energy sector, we find it appropriate to evaluate the possibility of acquiring additional clean energy resources through this Proceeding. Thus, we are willing to apply the approved backup bid selection process flexibly so that any available backup or supplemental backup bid from the 2021 ERP/CEP can apply for Stage 2 price relief, without necessarily waiting until a like-for-like resource in the approved portfolio fails. In addition, along with the contemplated Stage 2 pricing relief, we are willing to consider timing relief for backup bids that can no longer meet their initial construction timelines.

14. To ensure that all relevant developers are aware of the possibility of Stage 2 pricing and other timing relief, we direct Public Service to notify relevant developers, including those of backup and supplemental backup bids, of the initiation of the Stage 2 price relief process, the possibility of timing relief, and the flexible stance the Commission is taking regarding the acquisition of additional clean energy resources.

II. ORDER**A. It Is Ordered That:**

1. The Motion to Initiate Stage 2 Price Relief Process (“Motion”) that Public Service Company of Colorado (“Public Service”) filed on July 15, 2025, is granted, consistent with the discussion above.

2. Public Service shall notify relevant developers, including those of backup and supplemental backup bids of the initiation of the Stage 2 price relief process, the possibility of timing relief, and the flexible stance the Commission is taking regarding the acquisition of additional clean energy resources.

3. This Decision is effective immediately upon its Issued Date.

**B. ADOPTED IN COMMISSIONERS’ WEEKLY MEETING
August 6, 2025.**

(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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Commissioners