

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, WITH
MODIFICATIONS, MOTION TO INITIATE NEAR-TERM
PROCUREMENT**

Issued Date: September 8, 2025

Adopted Date: September 4, 2025

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I. BY THE COMMISSION

A. Statement

1. This Decision grants, with modifications, the Joint Motion to Initiate Near-Term Procurement and Request to Establish Procedural Schedule (“NTP Motion”) that Trial Staff of the Commission (“Staff”), the Colorado Energy Office (“CEO”), the Colorado Office of the

Utility Consumer Advocate (“UCA”), and Public Service Company of Colorado (“Public Service” or the “Company”) (collectively, the “Joint Movants”) filed on August 22, 2025.

B. NTP Motion

2. The NTP Motion seeks to initiate an expedited process for the near-term procurement of tax-advantaged clean generation as well as limited amounts of firm generation (the “NTP”). Through the NTP Motion, Joint Movants request authorization for Public Service to issue a Request for Proposals (“RFP”) and for approval of bid solicitation and evaluation process for the NTP. The Joint Movants argue that time is of the essence because developers and the Company need rapid project approvals in order to take steps for tax credit qualifications with key windows under the first U.S. House of Representatives Bill (“H.R. 1”) and recently issued U.S. Department of Treasury/Internal Revenue Service guidance regarding “commencing construction” closing mid-year 2026.

3. The NTP Motion states that the goal of the NTP is to integrate maximum clean energy by securing as much cost-effective electric generation under construction or placed in service as soon as possible, consistent with goals articulated in the recent letter from Governor Polis on August 1, 2025.¹ Within its representations, the NTP Motion includes that the NTP will not delay the Just Transition Solicitation (“JTS”) in Proceeding No. 24A-0442E, and that the State of Colorado and Public Service system need multiple solicitations.

4. As proposed, the NTP process will acquire up to 4,000 MW (nameplate) of renewable energy and hybrid projects; 200 MW (accredited) of thermal generation; and an additional 300 MW (accredited) of firm dispatchable generation (e.g., thermal generation or energy storage). According to the NTP Motion, the proposed thermal acquisition is designed to support

¹ Governor’s Letter, at 2, <https://drive.google.com/file/d/19yUgVo7UerkIulGzdZ3tlwZVCNXboAEZ/view>.

the integration of renewables, ensure system reliability, and work in tandem with the 300 MW firm dispatchable target. The NTP Motion states that Public Service is not operationally comfortable pursuing a clean energy generation-only solicitation due to resource adequacy concerns.²

5. In the NTP Motion, the joint movants state that an expedited acquisition of resources “may be less expensive than acquiring them without the tax credits, but this process needs to demonstrate that is the case.”³ In this vein, NTP Motion sets forth several customer protections that will be incorporated in NTP process. These include ensuring competitive tension among bidders, requiring bidders to stick with their offered pricing (subject to the 15 percent Stage 2 price increase for tariffs or other federal actions occurring after their bid date), and holding bidders accountable for tax credit qualification, “with no presumption of prudence applying to costs above total as-bid prices that include tax credit benefits.”⁴

6. As proposed, NTP bids will generally be subject to the same bid process and terms from the 2021 Electric Resource Plan and Clean Energy Plan (“ERP/CEP”), including that there will not be a conforming bid process. The model Power Purchase Agreements (“PPAs”) from the 2021 ERP/CEP will be the baseline, but the Company indicates it will negotiate changes to these PPAs. Also, the Company states it will lower the bid fee to \$2,000 per unique project.⁵ However, each project may submit two bids without paying an additional bid fee (one for a PPA and/or Build-Transfer (“BT”) with the same project). NTP bids must have commercial operation dates (“CODs”) no later than end-of-year 2029. In addition, each NTP bid must include a narrative

² NTP Motion, p. 6.

³ NTP Motion, pp. 4-5.

⁴ NTP Motion, p. 5.

⁵ NTP Motion, p. 7, n.9.

demonstrating tax credit qualification, and projects must demonstrate Senate Bill 23-292 compliance regarding Energy Sector Public Works Projects.⁶

7. The Company states it will target a 50/50 split of generation ownership, and utility-owned generation from the NTP will be counted in any ownership calculation in the JTS on a nameplate capacity basis. For Company-owned generation assets, the Company will request 120-day expedited considerations of applications for Certificates of Public Convenience and Necessity (“CPCNs”), and these projects will include Cost-to-Construct and Operational Performance Incentive Mechanisms. As proposed, generation investments and actions following the Commission’s approval of NTP projects would carry a presumption of need and prudence similar to other ERP resources.⁷

8. Regarding transmission, the NTP Motion confirms that all necessary interconnection investments will be included in the Levelized Cost of Energy (“LEC”)/Levelized Cost of Capacity (“LCC”) analysis, as would be presented through the Highly Confidential “Appendix P” to the 120-Day Report. The Company commits to work to identify generation projects located within the Denver Metro transmission constraint for potential development or acquisition and states that, to expedite interconnection, selected NTP projects will utilize a Provisional Large Generator Interconnection Agreement (“PLGIA”) in addition to a new Resource Solicitation Cluster (“RSC”), with a new RSC occurring at a future date to ensure interconnection infrastructure construction supports the achievement of the projects’ tax credit plans. As part of the NTP Report, the Company will include a forecasted representative cost of transmission

⁶ NTP Motion, p. 8.

⁷ NTP Motion, p. 8.

upgrades needed to interconnect resources as part of the presentation of any portfolio of resources.

The transmission upgrade costs will be assigned to the portfolio and not to individual projects.⁸

9. In the NTP Motion, the Joint Movants ask the Commission to expressly approve the below schedule:⁹

Event	Proposed
Motion	8/22/2025
RFP Issued	8/29/2025
Motion Responses	8/29/2025
Written Motion Decision	9/8/2025
RFP Response	10/6/2025
Public Service Analysis/NTP Report	12/5/2025
Interactive Technical Conference	12/18/2025 – 12/19/2025
Public Service/Intervenor Comments	1/12/2025
Written Commission Decision	2/9/2026

10. For the Public Service Analysis/NTP Report on December 5, 2025, the Joint Movants agree that it will differ from the traditional 120-Day Report to allow for an expedited timeline. Similar to the 2021 ERP/CEP, the Company will conduct an initial screen to eliminate projects with developer/commercial viability issues or uncertain plans for ensuring tax credit eligibility. The Company will then evaluate and list projects based on LEC/LCC but will *not* perform additional EnCompass modeling given the timing. The Company states that it “will consider project location with a focus on just transition communities, and provide narrative explanation of such considerations in its NTP report.”¹⁰ Ultimately, the NTP Report will contain Public Service’s recommendations for project development or acquisition.

⁸ NTP Motion, p. 9.

⁹ NTP Motion, p. 9.

¹⁰ NTP Motion, p. 11.

11. The procedural schedule also contemplates an Interactive Technical Workshop on December 18-19, 2025. This will feature a Public Service panel to address the NTP report. The Commission and intervenors will have an opportunity to ask questions at the workshop.¹¹

12. The NTP Motion includes a request for shortened response time.

C. Intervenor Responses

13. In Decision No. C25-0624-I,¹² the Commission set a shortened response time of August 29, 2025. The following parties timely submitted responses to the NTP Motion: the Colorado Energy Consumers (“CEC”); Colorado Independent Energy Association, Colorado Solar and Storage Association, Interwest Energy Alliance, and Solar Energy Industries Association (“IPP Trades”); Core Electric Cooperative (“CORE”); Natural Resources Defense Council and Sierra Club (“Conservation Coalition”) along with Western Resource Advocates (“WRA”); Holy Cross Electric Association, Inc. (“Holy Cross”); Pueblo County Board of County Commissioners (“Pueblo County”); and the City of Pueblo.

14. The IPP Trades strongly support the NTP Motion, arguing that it is essential to advancing the state’s clean energy goals while securing cost-effective resources for customers in light of recent changes in federal law. IPP Trades argue that after the revised IRS guidance for commencing construction, there is now a finite pool of available projects and development resources with a clear pathway to satisfying revised PTC and ITC requirements and deadlines. Developers must also ensure available equipment satisfies enhanced restrictions on materials from “foreign entities of concern.”¹³ The IPP Trades asserts that developers must have a regulatory

¹¹ NTP Motion, p. 10.

¹² Issued August 27, 2025.

¹³ IPP Trades’ Response, p. 2.

decision approving their projects no later than the second quarter of 2026 to take affirmative steps to commence and complete construction in time to satisfy IRS guidelines

15. In their Response, Conservation Coalition and WRA likewise support the NTP Motion. They argue the NTP Motion aligns with Governor Polis' recent letter to expedite renewable energy procurement and "[a]pproving the Joint Motion has only upside potential and no meaningful downsides."¹⁴ Regarding the lack of meaningful downside, Conservation Coalition and WRA note that the NTP Motion does not obligate the Commission to approve any particular quantity of resources, let alone any specific project.

16. While CEC does not oppose the NTP Motion, it requests the Commission adopt robust customer protections to ensure that customers are not harmed by shortcutting the Commission's standard resource planning and procurement process and expressly treat the NTP as non-precedential in future resource planning proceedings. CEC lists six specific requests. First, CEC argues the Commission must ensure that customers actually receive the full value of as-bid ITCs and PTCs. If the PTCs or ITCs do not come to fruition, CEC argues that risk must be borne by Public Service, the project developer, or a combination of both. Second, CEC argues that the Commission should not restrict dispatchable resources to 500 MW. If the NTP identifies an economic dispatchable resource greater than 500 MW, the Company should consider that resource and compare the costs to renewable projects rather than reject resources based on arbitrary caps. Third, CEC asks that the Commission reject the proposed NTP 50/50 ownership target and require the Company to select and present a least-cost, least-risk portfolio regardless of ownership type. Fourth, CEC argues the Company should be required to demonstrate in the JTS that it has accurately incorporated the accredited capacity procured in the NTP into its load forecasts,

¹⁴ WRA and Conservation Coalition's Response, p. 2.

resource adequacy, and transmission analyses. Fifth, CEC requests additional information in the NTP Report. CEC argues the Company should be required to include a description and analysis of the total costs of the proposed projects, the forecasted bill impacts to customers by customer type, and how Public Service intends to recover the costs of NTP projects (e.g., base rates, the Clean Energy Plan Rider, other riders, etc.). Finally, CEC asks that the Commission expressly state that the NTP process is non-precedential and does not replace the Commission's resource planning rules on a going-forward basis.¹⁵

17. In its Response, Holy Cross supports the NTP Motion but, consistent with its advocacy in the JTS, requests a Commission finding that paragraph 46 of the updated settlement agreement in the 2021 ERP/CEP applies to the NTP RFP.¹⁶ Holy Cross states it has discussed the NTP with Public Service and is authorized to state the following:

Paragraph 46 of the Updated Settlement Agreement gives Holy Cross the right to select resources from bids submitted in response to the JTS RFPs, subject to certain volume limitations, after Public Service selects resources. Holy Cross supports the NTP and has conferred with the Public Service about its ability to exercise these rights following Public Service's NTP resource selections. Public Service supports Holy Cross exercising its rights with respect to the NTP, noting that Holy Cross's resource acquisition limit is cumulative across the NTP and JTS RFPs.¹⁷

¹⁵ CEC's Response, pp. 2-3.

¹⁶ Holy Cross's Response, p. 5.

¹⁷ Holy Cross's Response, pp. 3-4.

18. Holy Cross further asserts that it and Public Service have agreed that the NTP RFP documents provided to bidders will mirror the language that Public Service and Holy Cross agreed to with respect to the JTS RFP, as follows:

Holy Cross Comanche 3 Replacement Capacity. After Public Service's resource portfolio is approved by the Commission, Holy Cross Electric Association may select resources from the bids submitted to this RFP to replace some or all of its 60 MW Comanche 3 capacity entitlement. Please see holycross.com/NTPRFP for more information.¹⁸

19. In CORE's Response, it does not take a position on the as to the technology types or amount of capacity proposed in the NTP Motion but argues the Commission should carefully scrutinize the interconnection and transmission impacts of the NTP Motion. CORE asserts that its own renewable projects have suffered significant delays due to the Company's transmission study process.¹⁹ CORE argues that any expedited treatment of interconnection or transmission service for replacement generation to serve the Company's retail load must be subject to the principles of open access transmission long espoused by the Federal Energy Regulatory Commission.²⁰

20. In the City of Pueblo's Response, the City reiterates how Pueblo Unit 3 has been vital to the economic well-being of the City in terms of both direct and indirect jobs. The City of Pueblo encourages the Commission to review again the updated settlement agreement in the 2021 ERP/CEP, the report from the Pueblo Innovative Energy Solutions Advisory Committee, and the rest of the 2021 ERP/CEP Proceeding for context and to guide its decision in both the NTP Motion and the pending JTS.²¹ The City does not appear to otherwise offer a position on the NTP Motion.

¹⁸ Holy Cross's Response, p. 4.

¹⁹ CORE asserts that the Company has studied CORE's projects alongside hypothetical generation from the 2021 ERP, even though CORE's projects were submitted ahead of any projects from the 2021 ERP.

²⁰ CORE's Response, p. 3.

²¹ City of Pueblo's Response, pp. 1-2.

21. Pueblo County takes no position on the NTP Motion. Instead, Pueblo County's Response expresses its dissatisfaction with the Commission's oral deliberations in the pending JTS proceeding.

D. Discussion

22. Based on Responses received on August 29, 2025, the NTP Motion is largely unopposed, with CEC, Holy Cross, and CORE recommending relatively limited modifications and clarifications. With the changes to federal tax policy pursuant to H.R. 1, there is more urgency to secure additional tax-advantaged resources. The Commission agrees with Public Service, Staff, UCA, CEO, the IPP Trades and other parties that the NTP process may provide additional renewable projects that qualify for tax credits and is thus worth pursuing. We applaud the Joint Movants for working together to bring this specific approach to the Commission with widespread stakeholder support. The Commission therefore grants the NTP Motion, subject to the modifications and clarifications below.

23. Given the expedited nature of the NTP process, we appreciate the Joint Movants' recognition that the NTP process needs to demonstrate that the NTP process will result in tax-advantaged projects that are less expensive. We support the NTP Motion's proposed customer protections, including holding bidders to their offered pricing (subject to limited adjustments for tariffs or other federal actions), making bidders accountable for tax credit qualification, and requiring projects to include a narrative demonstrating tax credit qualification. To strengthen these protections, Public Service and other bidders are hereby on notice that the risk of not-qualifying for tax credits relied upon in an NTP's bid pricing could be borne by Public Service, the developer, or both. This is directionally consistent with CEC's recommendation. In addition, bidders shall

address in their narrative demonstrating tax credit qualification the expected impacts of the new foreign entity of concern statutory provisions within H.R. 1.

24. As for CEC's other recommendations, we grant CEC's proposed additions to the NTP Report, in part. In addition to the commitments in the NTP Motion, Public Service shall include in its NTP Report a description and analysis of the total costs of the proposed projects and how the Company intends to recover the costs of NTP projects (e.g., base rates or other riders). However, we stop short of requiring the Company to include forecasted bill impacts to customers by customer type. This type of analysis might be difficult to conduct in the expedited timeframe of the NTP. We further require Public Service to demonstrate in the JTS that it has accurately incorporated the accredited capacity procured in the NTP, and we clarify that the NTP process is non-precedential and does not replace the Commission's resource planning rules on a going-forward basis.

25. The Commission rejects CEC's remaining requests to eliminate the capacity caps for dispatchable resources and the 50/50 ownership target. Additional dispatchable capacity above the 500 MW cap can be acquired in the JTS where there are more procedural protections. As for the 50 percent ownership target, the Commission has sufficient discretion when reviewing the NTP Report to approve only those projects the Commission deems are appropriate.

26. Turning to Holy Cross's requests, Holy Cross and Public Service have apparently reached agreement on Holy Cross's rights to acquire NTP projects as well as how to communicate these rights to bidders in the NTP. We see no reason to prevent Public Service and Holy Cross from moving forward consistent with their agreement but expressly allow other parties to respond to Holy Cross's proposal to acquire NTP projects in their responses to the NTP Report.

27. Regarding the NTP Motion's proposals regarding Rule 3617(d), the Commission generally agrees that selected NTP projects will likely qualify for a presumption of prudence under Rule 3617(d). Consistent with past practices, however the Commission retains discretion to limit or condition the application of Rule 3617(d) until after we can evaluate the specific NTP projects.

28. While not raised by the parties, we are wary of a situation where developers only bid projects into the NTP RFP and not the JTS base RFP. Accordingly, the Commission directs Public Service, and encourages the other parties, to file proposals by September 24, 2025, addressing proposals to encourage developers to submit bids both in the NTP RFP and the JTS base RFP. One of the specific proposals the Company must address is waiving the JTS bid fee for projects bidding into the NTP RFP. Waiving the JTS bid fee would allow a developer to submit a bid in the NTP RFP as well as the JTS RFP without paying two bid fees. The JTS bid could be allowed to adjust its pricing based on the changes to tax credit eligibility but should otherwise remain the same as the NTP bid.

29. The Commission appreciates that Public Service and the IPP Trades apparently have agreed to use the 2021 model PPAs as the starting point, and that both IPPs and the Company will be able to submit proposed changes to the 2021 model PPAs. We urge both the Company and IPPs to negotiate PPA terms reasonably so as not to jeopardize the ability to quickly execute PPA contracts so that projects can begin development.

30. We further appreciate the Company's commitment in the NTP Motion to consider project location with a focus on just transition communities. We strongly support this continued focus on just transition communities. This Commission prefers to see new dispatchable generation located in communities with retiring coal plants as long as there is reasonable competitive tension and manageable long-term rate impact, even if it is not necessarily lowest cost resource.

31. Finally, we find it appropriate to make certain changes to the Joint Movant's proposed procedural schedule. First, Public Service shall file a motion to acquire NTP resources along with the analysis and NTP Report that it plans to file on December 5, 2025. This will add procedural clarity. Related to this change, we preemptively waive the Company's conferral requirements for the December 5 motion. Regarding the deadline for Company and intervenor comments, the Commission retains the January 12, 2026 date but changes the required filings to intervenor responses to the Company's motion to acquire NTP resources. January 12, 2026, is also the deadline for any settlements. Public Service may request permission to file a reply to intervenor responses, but any such request and reply should be filed on or before January 23, 2026.

32. In addition, it is unclear how the Joint Movants intend for the Interactive Technical Workshop to be run, especially since intervenors as well as the Commission will have an opportunity to ask questions to a panel of Public Service representatives. To help ensure an efficient workshop, we schedule a status conference for December 12, 2025. The purpose of the status conference will be to flesh out the proposed logistics for the Interactive Technical Workshop.

33. In summary, and consistent with the above we therefore approve the proposed schedule with the following modifications:

Event	Date
RFP Issued	8/29/2025
RFP Response	10/6/2025
Public Service Analysis/NTP Report and Motion for Approval	12/5/2025
Status Conference	12/12/2025
Interactive Technical Conference	12/18/2025 – 12/19/2025
Responses to Motion for Approval	1/12/2025

34. While we do not approve the requested decision date, this timeline retains the substance of the proposed deadlines and, pending substantive pleading review and absent further filings, sets the path for consideration and a potential written order by the date requested.

II. ORDER

A. It Is Ordered That:

1. We grant, with modifications, the Joint Motion to Initiate Near-Term Procurement (“NTP”) and Request to Establish Procedural Schedule (“NTP Motion”) that Trial Staff of the Commission, the Colorado Energy Office, the Colorado Office of the Utility Consumer Advocate, and Public Service Company of Colorado (“Public Service” or the “Company”) filed on August 22, 2025, consistent with the discussion above.

2. Public Service shall file proposals by September 24, 2025, addressing ways to encourage developers to submit bids both in the NTP RFP and the JTS base RFP. One of the specific proposals the Company must address is waiving the JTS bid fee for projects bidding into the NTP RFP.

3. The Commission adopts the following procedural deadlines for the NTP Process: RFP Responses are due on October 6, 2025; Public Service’s motion to acquire NTP resources

along with the NTP Report is due December 5, 2025; the settlement deadline regarding the motion to acquire NTP resources is January 12, 2026; the deadline for intervenors to respond to Public Service's motion to acquire NTP resources is January 12, 2026.

4. A remote status conference to discuss the logistics of the Interactive Technical Workshop is scheduled in this Proceeding as follows:

DATE: December 12, 2025

TIME: 9:00 a.m. to 11:00 a.m.

PLACE: Join by video conference using Zoom

5. A remote Interactive Technical Workshop is scheduled in this Proceeding as follows:

DATE: December 18-19, 2025

TIME: 9:00 a.m. to 5:00 p.m.

PLACE: Join by video conference using Zoom

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

**B. ADOPTED IN COMMISSIONERS' DELIBERATIONS MEETING
September 4, 2025.**

(S E A L)



ATTEST: A TRUE COPY

Rebecca E. White,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ERIC BLANK

MEGAN M. GILMAN

Commissioners

COMMISSIONER TOM PLANT,
ABSENT