

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 25A-0194E

IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO FOR APPROVAL OF ITS 2026-2027 RENEWABLE ENERGY COMPLIANCE PLAN, DISPATCHABLE DISTRIBUTED GENERATION PROCUREMENT PROPOSAL, AND CORRESPONDING MODIFICATIONS TO ITS RENEWABLE ENERGY STANDARD ADJUSTMENT AND ELECTRIC COMMODITY ADJUSTMENT COST RECOVERY MECHANISMS.

INTERIM DECISION RELATING TO OMNIBUS MOTION

Issued Date: August 28, 2025

TABLE OF CONTENTS

I. STATEMENT.....	2
A. Relevant Procedural Background	2
II. DISCUSSION AND FINDINGS	3
A. Specific Requests.....	3
1. Motion to Extend.....	3
2. Motion for Waivers and Variances	6
3. Motion for Extraordinary Protection.....	8
B. Analysis	12
1. Motion to Extend.....	12
2. Motion for Waivers and Variances	12
3. Motion for Extraordinary Protection.....	13
III. ORDER.....	14
A. It Is Ordered That:	14

I. STATEMENT**A. Relevant Procedural Background**

1. On May 12, 2025, Public Service Company of Colorado (“Public Service”) filed its Verified Application of Public Service Company of Colorado for Approval of its 2026-27 Renewable Energy Compliance Plan (“Application” or “Proposed RE Plan”).

2. Also on May 12, 2025, along with another motion not relevant to this Decision, Public Service filed its Verified Omnibus Motion to Extend 2022-25 RE Plan (“Motion to Extend”); Motion for Issuance of Waivers and Variances Necessary to Implement its 2026-2027 Renewable Energy Compliance Plan (“Motion for Waivers and Variances”); and Motion for Extraordinary Protection (collectively, the “Omnibus Motion”).

3. In addition to Public Service, the following entities are parties to this Proceeding: the Office of the Utility Consumer Advocate (“UCA”); the Colorado Energy Office (“CEO”); Staff of the Public Utilities Commission (“Staff”); Pivot Energy Inc. (“Pivot”); the City of Boulder (“Boulder”); Energy Outreach Colorado (“Energy Outreach”); Western Resource Advocates (“WRA”); SunShare, LLC (“SunShare”); the Colorado Solar and Storage Association, Solar Energy Industries Association, and Coalition for Community Solar Access (collectively, the “Associations”); Climax Molybdenum Company (“Climax”); Cloudbreak Energy Partners, LLC (“Cloudbreak”); and GreenLatinos, GRID Alternatives, and Vote Solar (collectively, “EJC”).¹

4. In Decision No. R25-0532-I, the ALJ established a deadline of August 11, 2025 for responses to the Omnibus Motion.

¹ Decision No. R25-0562-I (July 31, 2025 at p. 14).

5. The following parties timely filed Responses to the Omnibus Motion: The Associations and Staff. In addition, CEO filed a response to the Motion to Extend portion of the Omnibus Motion.

6. On August 18, 2025, Public Service filed a Notice Regarding Motion to Extend (“Notice”).

II. DISCUSSION AND FINDINGS

A. Specific Requests

7. Public Service makes three requests in its Omnibus Motion: (a) authorization to extend its current 2022-2025 Renewable Energy Compliance Plan (“Current RE Plan”) and Renewable Energy Standard Adjustment (“RESA”) until the Proposed RE Plan is approved and in effect; (b) waivers and variances from certain Commission Rules² to implement its Proposed RE Plan;³ and (c) extraordinary protections for certain highly confidential information.⁴

1. Motion to Extend

8. Public Service seeks an order that authorizes it to extend its existing 2022-25 RE Plan and RESA until its Proposed RE Plan is in effect, noting that such a request is consistent with prior Commission practice.⁵

9. Public Service claims that recent legislative enactments impacted Public Service’s RE compliance and associated programming, and that Public Service is required to develop and propose several new programs in its Proposed RE Plan.⁶ Given this, Public Service claims it required additional time to prepare and file its Proposed RE Plan, but that a Commission Order is

² Found at 4 *Colorado Code of Colorado Regulations* (“CCR”) 723-3.

³ See Omnibus Motion at p. 2.

⁴ *Id.* at p. 1.

⁵ *Id.* at p. 6.

⁶ *Id.*

unlikely to go into effect before its current RE Plan and RESA expire.⁷ Public Service sets forth its proposal to extend its current RE Plan for the following programs: (a) Solar*Rewards Residential IQ/DI⁸ Community; (b) Solar*Rewards Commercial and Industrial; (c) Solar*Rewards IQ On-site; (d) Renewable Battery Connect; (e) Renewable*Connect; (f) Renewable*Connect Flex; and (g) Recycled Energy.⁹ Public Service notes that it does not request to extend the Solar*Rewards Community offering or Solar*Rewards Large Offering and explains that the Solar*Rewards Community offering is being replaced by the Inclusive Community Solar offering under Senate Bill 24-207.¹⁰ Public Service further explains that it will sunset the Solar*Rewards Community offering on December 31, 2025, and will open its Inclusive Community Solar offering to new participants in January 2026 with current Solar*Rewards Community customers participating without interruption.¹¹ Moreover, due to declining customer interest, Public Service will not seek to extend the Solar*Rewards Large offering beyond its 2025 expiration.¹²

10. Finally, Public Service requests an extension of the RESA beyond December 31, 2025 in conjunction with an extension of its 2022-25 RE Plan to allow it to recover costs for that programming as previously approved.¹³

11. Public Service argues that extending its 2022-25 RE Plan and RESA is reasonable and in the public interest as it will provide customers with certainty and continuity of service, and that such a request is consistent with prior Commission practice.¹⁴

⁷ *Id.*

⁸ Income Qualified and Disproportionately Impacted.

⁹ Omnibus Motion at pp. 7-8.

¹⁰ *Id.* at p. 8.

¹¹ *Id.*

¹² *Id.* at p. 9.

¹³ *Id.*

¹⁴ *Id.* at p. 10

12. Staff responded that it does not generally oppose the concept of extending the 2022-25 RE Plan and RESA until the Proposed RE goes into effect, but that it opposes Public Service’s specific requests because they “lack essential details, require further clarification and corrections, and do not provide an explanation of how the extension of the various programs under the [Proposed] RE Plan would interact with the program capacities and budgets” that may be ultimately approved.¹⁵ As one of several examples in its Response, Staff notes that Public Service’s Motion to Extend lacks clarity about whether costs incurred during the extension period will count toward the new RE Plan budget.¹⁶

13. The Associations support a Commission order continuing the 2022-25 RE Plan until the Proposed RE Plan goes into effect.¹⁷ The Associations suggest that Public Service could have filed its Proposed RE Plan earlier but believe avoiding market disruptions warrants extending the 2022-25 RE Plan.¹⁸ The Associations express that Public Service “must find a way to make Inclusive Community Solar capacity available by February 1, 2026 as required by Colorado law.”¹⁹

14. On August 18, 2025, Public Service filed its Notice, wherein it stated that it is “actively working with Staff to understand and potentially address Staff’s concerns.”²⁰ Public Service further stated that, depending on the outcome of its discussions with Staff, it may make an appropriate filing.²¹

¹⁵ Staff Response at p. 2.

¹⁶ *Id.* at pp. 4-5.

¹⁷ Associations’ Response at pp. 1-2.

¹⁸ *Id.*

¹⁹ *Id.* at p. 3.

²⁰ Notice at pp. 1-2.

²¹ *Id.* at p. 2.

2. Motion for Waivers and Variances

15. Public Service requests waivers and variances from eight sets of certain rules. Public Service notes that it “does not, however, have a need for Commission resolution of [its waiver requests] until the Commission issues a final decision [in this Proceeding].”²² In the Omnibus Motion, Public Service requested the waivers and variances “to the extent required” from:

- Rules 3562(e), (f), (i), (j), (k), (l), and (p), as well as other definitions, on the basis that they conflict with the requirements of § 40-2-127.2, C.R.S.²³ These Rules include definitions regarding community solar gardens (“CSG”) that have statutorily changed since the General Assembly passed § 40-2-127.2, C.R.S.²⁴
- Rules 3875-3883 (“CSG Rules”) that conflict with the newly codified requirements of § 40-2-127.2, C.R.S.,²⁵ notwithstanding Public Service’s assertion that “these rules do not apply to [Public Service’s] Inclusive Community Solar program.”²⁶
- Rules 3580-3589 (“Interconnection Rules”) and Public Service’s “associated interconnection tariffs.”²⁷ As the basis for this request, Public Service states that the subject matter of the Interconnection Rules is retail and distributed energy resource interconnection study processes, procedures, timelines, and performance metrics, and Public Service’s interconnection tariffs incorporate the requirements of those rules.²⁸ As Public Service is proposing a new flexible interconnection offering in this Proceeding, Public Service does not know to what extent the Interconnection Rules will be considered to apply to the new flexible interconnection offering, and so Public Service seeks a waiver.²⁹ Public Service seeks this waiver despite its belief that these Rules do not apply to Public Service’s newly created flexible interconnection offering.³⁰
- Rule 3657(a) on the basis that Public Service may file for approval of its Proposed RE Plan separately from its Electric Resource Plan (“ERP”).³¹ Public

²² *Id.* at p. 2.

²³ Omnibus Motion at pp. 2-3.

²⁴ *Id.* at p. 12.

²⁵ *Id.* at pp. 3, 12.

²⁶ *Id.* at p. 12.

²⁷ *Id.* at p. 3.

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.* at p. 14.

³¹ *Id.* at p. 3.

Service notes that the Commission has historically allowed Public Service to file its plans separately.³²

- Rule 3661(d) on the basis that Public Service may transition to a fixed, dollar-based administrative budget instead of calculating an administrative budget as a percentage of RESA collections.³³
- Paragraph 72 in Decision No. C22-0678 that the RESA expire on December 31, 2025.³⁴
- Rule 3661(e) on the basis that Public Service can utilize its most recent ERP modeling.³⁵ Public Service asserts that it utilized the most recent resource modeling assumptions from its Just Transition Solicitation plan in Proceeding No. 24A-0442E (“JTS Plan Proceeding”) for its Renewable Energy Standard (“RES”) modeling, and these modeling assumptions use up-to-date generic cost and resource assumptions that are updated from those presented in its most recent approved ERP.³⁶
- Any other waivers or variances deemed necessary to carry out Public Service’s proposals in this Proceeding.³⁷ Public Service specifically seeks waivers or variances from any prior Commission decisions that are needed to effectuate its proposed simplified cost allocation methodology.³⁸

16. Staff generally agrees that Public Service waiver requests do not need to be ruled upon at this point in this Proceeding and that Public Service’s requests are premature.³⁹ Staff also offered its substantive input on Public Service’s requests. Staff asserts, for example, that Public Service’s requests for waivers for rules that conflict with newly enacted legislation are unnecessary, as Colorado law holds that when there is a conflict with an agency rule definition and a statutory definition, the statutory definition controls.⁴⁰

³² *Id.* at p. 16.

³³ *Id.* at p. 3.

³⁴ *Id.* at p. 4.

³⁵ *Id.*

³⁶ *Id.* at p. 19.

³⁷ *Id.* at p. 4.

³⁸ *Id.* at p. 19.

³⁹ See Staff’s Response to Public Service’s Omnibus Motion (“Staff Response”) at pp. 5-6.

⁴⁰ See Staff Response at p. 6 (citing *Colorado Workers for Innovative and New Solutions v. Gheradini*, 540 P.3d 950, 955 (Colo. App. 2023)).

17. The Associations similarly agree that “the Commission should refrain from ruling on the motion for waivers and variances until its final decision in this proceeding.”⁴¹ The Associations argue that, given the uncertainty of litigation, the Commission should consider all evidence and arguments before ruling on Public Service’s requests.⁴²

3. Motion for Extraordinary Protection

18. Information filed with the Commission is presumed to be public record.⁴³ There are exceptions to this presumption, however, and Rule 1101⁴⁴ provides the procedure and requirements to limit access to documents and information filed with the Commission in a proceeding. Public Service requests extraordinary protection for certain documents and information pursuant to Rule 1100(b).⁴⁵ Under Rule 1100(b), a party seeking highly confidential protection must file a motion and demonstrate that extraordinary protection beyond that otherwise provided for information furnished subject to a claim of confidentiality is required, which: includes a detailed description of the information to be protected; states the specific relief sought and grounds therefor; advises the parties of the request and the subject matter of the information at issue; establishes that the information at issue is highly confidential and that highly confidential protection is necessary because rules providing protection for confidential information offer insufficient protection; is accompanied by a proposed nondisclosure agreement and an affidavit with names of all persons who have access to the information and the timeframe for protection; and either files the highly

⁴¹ [The Associations’] Response to Public Service Company of Colorado’s Omnibus Motion (“Associations’ Response”) at p. 5.

⁴² *Id.*

⁴³ See §§ 24-72-202(6)(a)(I) and 24-72-203, C.R.S.

⁴⁴ 4 CCR 723-1.

⁴⁵ 4 CCR 723-1.

confidential information or establishes why doing so would be overly burdensome, impractical, or too sensitive for disclosure.⁴⁶

19. Public Service seeks highly confidential protection to restrict access to documents and information that fall into the following categories: (a) 14 categories of competitive and commercially-sensitive resource planning information either contained in or related to certain workpapers that support its direct case⁴⁷; and (b) any and all information or documentation that is produced either in discovery or as part of the evidentiary record in this Proceeding that is subject to an existing protective order in Public Service's 2021 ERS & Clean Energy Plan Proceeding ("ERS & CEP Proceeding")⁴⁸ or its JTS Plan Proceeding, and under the same conditions (collectively, "the Highly Confidential Information").⁴⁹

20. Public Service notes that the information for which highly confidential protection is sought are the types of information the Commission has previously designated as highly confidential.⁵⁰ As to both main categories of the Highly Confidential Information, Public Service claims that their disclosure could cause irreparable harm to its trading operations, commercial negotiations, and/or its ability to solicit and obtain cost-effective resources.⁵¹

⁴⁶ Rule 1101(b), 4 CCR 723-1.

⁴⁷ See Omnibus Motion at pp. 20-21 (Owned unit and power purchase agreement ("PPA"): (1) delivered fuel costs; (2) level heat rates curves; (3) detailed maintenance schedules; (4) discrete forced outage rates; (5) historical hourly generation data or wind speed data; (6) hourly marginal system or unit data; as well as (7) Black start unit designation; (8) Hourly market price data; (9) Any information protected by the confidentiality clause of a PPA; (10) Fully resolved modeling database; (11) Standard modeling output files; (12) Bid information, including project name, identifying information, and pricing; (13) Any customer-specific information, including data that does not comport with data privacy rules and the "15/15 Rule"; and (14) Any other information protected by a confidentiality clause of an existing non-disclosure agreement or similar agreement where Public Service is contractually committed to keep certain information confidential, and Public Service is bound to maintain such confidentiality, absent a Commission order to the contrary.).

⁴⁸ Proceeding No. 21A-0141E.

⁴⁹ Omnibus Motion at pp. 19-20.

⁵⁰ *Id.*

⁵¹ *Id.*

21. To prevent disclosure in a manner that could cause great harm to Public Service, Public Service requests that access to the Highly Confidential Information be limited as follows:

- Regarding the first 12 categories of Highly Confidential Information, access to these categories be limited to a “reasonable number of attorneys” and a “reasonable number of subject matter experts,” representing a party to this Proceeding; and
- For the thirteenth and fourteenth categories (any information protected by the confidentiality clause of a PPA, any customer-specific information, or any information protected by a confidentiality clause of an existing non-disclosure agreement or similar agreement), to limit access to the Commission⁵², Staff, and the UCA.⁵³

22. Public Service argues that, although Rule 3614(b)⁵⁴, Confidential Information Regarding Electric Generation Facilities and Energy Storage Systems, does not apply to this Proceeding, the Rule’s limitations are appropriate to consider.⁵⁵ Specifically, Public Service argues that the first 12 categories of Highly Confidential Information should be subject to the requirements of Rule 3614(b) as this information is competitively sensitive and should not be provided to persons who are able to use it for competitive purposes.⁵⁶ Public Service further illustrates how disclosure of such information to other entities could negatively impact Public Service and its customers.⁵⁷

23. With respect to the thirteenth and fourteenth categories of Highly Confidential Information, Public Service argues that the Commission’s rules are designed to broadly protect customers from the unauthorized disclosure of their personal or personally-identifying

⁵² Public Service defines “Commission” in this context to include Commissioners, ALJs, and Commission Advisory Staff and Advisory Counsel. *See* Omnibus Motion at p. 22 (FN 21).

⁵³ Omnibus Motion at p. 23.

⁵⁴ 4 CCR 723-3, Electric Rules.

⁵⁵ Omnibus Motion at p. 23.

⁵⁶ *Id.*, citing Decision No. C16-0663-I, Proceeding No. 16A-0396E, ¶ 64 (mailed July 15, 2016).

⁵⁷ *Id.* at pp. 23-24.

information.⁵⁸ In particular, Public Service argues Rule 1105(a):⁵⁹ Personal Information – Disclosure, and Rule 3027⁶⁰, Privacy, Access, and Disclosure, clarify that the thirteenth and fourteenth categories of information are protected.⁶¹ Public Service argues that disclosure of this information would violate the letter and spirit of the Commission’s data privacy rules, which were designed to protect customers from the unauthorized disclosure of their customer-specific information.⁶² Public Service further argues that the Commission routinely protects this information and cites other proceedings where the Commission has done so.⁶³

24. Finally, Public Service requests that any additional information or documentation that is produced in this Proceeding and subject to an existing protective order in either the JTS Plan Proceeding or the ERP & CEP Proceeding be granted extraordinary protection.

25. Public Service included forms of nondisclosure agreements for attorneys and subject matter experts with their Motion for Extraordinary Protection.⁶⁴ Public Service also included an affidavit of Mr. Jack W. Ihle for Xcel Energy Services Inc., which identifies all people with access to the Highly Confidential Information and the period of time for which the information must remain subject to highly confidential protection.⁶⁵ Public Service did not file the documents for which it seeks highly confidential treatment with the Omnibus Motion, claiming that the Highly Confidential Information is too sensitive for disclosure.⁶⁶ Public Service also requests that all parties and their counsel and subject matter experts either destroy or return to

⁵⁸ *Id.* at p. 24.

⁵⁹ 4 CCR 723-1, Rules of Practice and Procedure.

⁶⁰ 4 CCR 723-3, Electric Rules.

⁶¹ Omnibus Motion at pp. 24-26.

⁶² *Id.*

⁶³ *Id.*

⁶⁴ See Attachments A and B to Omnibus Motion.

⁶⁵ See Attachment C to Omnibus Motion.

⁶⁶ Omnibus Motion at p. 28.

Public Service the Highly Confidential Information that is provided to them during the Proceeding upon the Proceeding's conclusion.⁶⁷

B. Analysis

1. Motion to Extend

26. Public Service's Motion to Extend is largely uncontested as ten of the parties have not filed a response, deeming the Motion to Extend confessed by UCA, CEO, Pivot, Boulder, Energy Outreach, WRA, SunShare, Climax, Cloudbreak, and EJC.⁶⁸ Both Staff and the Associations generally agree that the 2022-25 RE Plan and RESA should be extended until the Proposed RE is in effect, but Staff opposes the Motion to Extend as it currently exists.⁶⁹ CEO supports the Motion to Extend.⁷⁰

27. Public Service's Notice alerted the ALJ of discussions it is having with Staff to potentially address Staff's concerns with the Motion to Extend. The ALJ construes the Notice as a Motion to Hold in Abeyance the request to extend. The ALJ will grant this motion (so construed) and will order Public Service to make an appropriate filing after its discussions with Staff.

2. Motion for Waivers and Variances

28. Public Service, Staff, and the Associations agree that Public Service's requests for waivers and variances should not be decided at this time.⁷¹ The ALJ also agrees that Public Service's requests for waivers are premature as the Proposed RE Plan has not been adjudicated. Accordingly, it is unclear at this time what waivers and variances, if any, will be necessary. Based on this, the ALJ will deny Public Service's requests for waivers and variances without prejudice.

⁶⁷ *Id.*

⁶⁸ See Rule 1400(b) and (d), 4 CCR 723-1.

⁶⁹ See Staff Response at p. 8 and Associations' Response at p. 5.

⁷⁰ CEO Response at p. 1.

⁷¹ See, e.g., Omnibus Motion at p. 2; Staff Response at pp. 5-6; and Associations' Response at p. 5.

Public Service can reassert its requests for waivers and variances later in this Proceeding if it so chooses.

3. Motion for Extraordinary Protection

29. Staff does not oppose Public Service's Motion for Extraordinary Protection.⁷² Similarly, the Associations do not oppose this request.⁷³ With regard to the other parties in the case, the Motion for Extraordinary Protection is deemed confessed and unopposed.⁷⁴

30. Based on the information in Public Service's Motion for Extraordinary Protection (discussed above), the ALJ will grant the Motion for Extraordinary Protection for the referenced Highly Confidential Information as requested.⁷⁵ That said, Public Service will be required to make a filing identifying the information, or categories of information, that the Commission deemed highly confidential in either the JTS Plan Proceeding or the ERP & CEP Proceeding, with supporting citations to Commission decisions granting extraordinary protection. Doing so ensures that the record in this Proceeding clearly identifies information deemed highly confidential for which extraordinary protection will be afforded.

31. Extraordinary circumstances requiring highly confidential protection afforded here extends to executable versions of documents containing such information, and any other disclosure of the same information in whatever format, including during an evidentiary hearing. All parties must ensure that filings (particularly exhibits and attachments) to which highly confidential protection is afforded comply with the identification and filing requirements in Attachment B to this Decision.

⁷² Staff Response at p. 8.

⁷³ Associations' Response at p. 5.

⁷⁴ See Rule 1400(b) and (d), 4 CCR 723-1.

⁷⁵ To the extent necessary, and because the Public Service established good cause therefore, the ALJ waives Rule 1101(b)(VII), 4 CCR 723-1, for purposes of the Motion for Extraordinary Protection.

III. ORDER

A. It Is Ordered That:

1. Public Service Company of Colorado's ("Public Service") Motion to Extend 2022-25 Renewable Energy Plan, filed May 12, 2025, is held in abeyance consistent with the above discussion. Public Service shall make an appropriate filing relative to its discussions with Public Utilities Trial Staff's Response to its Motion to Extend. Public Service must make this filing by **September 15, 2025**.

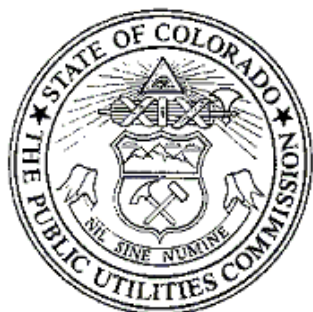
2. Public Service's Motion for Issuance of Waivers and Variances Necessary to Implement its 2026-2027 Renewable Energy Compliance Plan is denied without prejudice, consistent with the above discussion.

3. Public Service's Motion for Extraordinary Protection of Highly Confidential Information is granted, consistent with the above discussion. On or by **September 23, 2025** Public Service must make a filing identifying the information, or categories of information, that the Commission deemed highly confidential in Proceeding No. 24A-0042E (Just Transition Solicitation Plan) and Proceeding No. 21A-0141E (Electric Resource Plan & Clean Energy Plan), with supporting citations to Commission decisions granting extraordinary protection in those proceedings.

4. All parties must ensure that filings (particularly exhibits and attachments) to which highly confidential protection is afforded comply with the identification and filing requirements in Attachment B to this Decision, which are incorporated into this Decision as if fully set forth herein.

5. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

KELLY A. ROSENBERG

Administrative Law Judge

ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Rebecca E. White".

Rebecca E. White,
Director