

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 25A-0367E

IN THE MATTER OF THE VERIFIED APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO FOR APPROVAL OF A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR THE PAWNEE 250 MW SOLAR PLUS 200 MW STORAGE GENERATION FACILITY.

**INTERIM DECISION
SETTING PROCEDURAL SCHEDULE, EXTENDING TIME
FOR A COMMISSION DECISION, GRANTING MOTION
FOR EXTRAORDINARY PROTECTION OF HIGHLY
CONFIDENTIAL INFORMATION AND SCHEDULING
REMOTE EVIDENTIARY HEARING**

Issued Date: October 23, 2025

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I. STATEMENT

1. On September 2, 2025, Public Service Company of Colorado (“Public Service” or the “Company”) filed a Verified Application for Approval of a Certificate of Public Convenience and Necessity (“CPCN”) for the Pawnee 250 megawatt (“MW”) Solar Plus 200 MW Storage Generation Facility (“Pawnee Project”).

2. The Company seeks approval of the following:

- a. Approval of a CPCN to construct, own, and operate the Pawnee 250 MW solar facility paired with a 200 MW Battery Energy Storage System (“BESS”), including all associated interconnection facilities;
- b. A finding affirming the Rule 3617(d) presumption of prudence afforded by the Commission’s Phase II Decision applies to the total as-bid project cost estimate of the Pawnee Project as an approved activated backup bid;
- c. Approval of the Cost to Construct performance incentive mechanism (“CtC PIM”) baseline consistent with the baseline calculations and methodology approved in Proceeding No. 24A-0417E and provided as Highly Confidential Attachment MVP-1;
- d. Approval of the Operational PIM baseline consistent with the baseline calculations and methodology approved in Proceeding No. 24A-0417E and provided as Highly Confidential Attachment MVP-2;
- e. Approval of the Company’s proposed project reporting; and,
- f. A finding that the noise and electromagnetic field (“EMF”) levels are reasonable by Commission rule and require no further mitigation or prudent avoidance measures.

3. In supplication, Public Service submitted the testimony of Mr. Michael V. Pascucci and Mr. Bradley D. Morrison.

4. On September 2, 2025, Public Service filed its Motion for Extraordinary Protection of Highly Confidential Information (“Motion for Extraordinary Protection”).

5. On October 1, 2025, the Colorado Office of the Utility Consumer Advocate (“UCA”) filed an Intervention as of Right and Request for Hearing. As grounds for its Intervention, UCA lists a series of issues it plans to inquire into whether the approvals are in the public interest.

6. On October 3, 2025, Climax Molybdenum Company (“Climax”) filed its Motion to Intervene Permissively. Climax states it operates the Climax and Henderson molybdenum mines and related facilities near Leadville and Empire, Colorado, and the cost and reliability of Public Service’s electric service are major factors in Climax’s ability to conduct its operations successfully. Climax has identified concerns with the application as it relates to the overall costs Public Service seeks to impose on ratepayers

7. On October 7, 2025, Trial Staff of the Colorado Public Utilities Commission (“Staff”) filed an Intervention as of Right and Request for Hearing. Staff lists in its intervention some areas of inquiry it intends to examine.

8. On October 8, 2025, the Commission deemed the Application complete and referred this matter by minute entry to an Administrative Law Judge (“ALJ”) for disposition during its weekly meeting.

9. On October 17, 2025, the Public Service filed its Motion to Approve Consensus Procedural Schedule and Request Waiver of Response Time (“Motion”).

II. PARTIES TO THE PROCEEDING

A. Interventions of Right

10. Staff and UCA filed timely notices of intervention. In their filings, they outline several issues they plan to address in this Proceeding and request a hearing.

11. 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. The notices of intervention of right are acknowledged. Staff, CEO and the UCA are parties to this Proceeding.

B. Permissive Intervention

12. Climax filed a timely request for permissive intervention.

13. Climax states that the above-captioned proceeding will have a substantial and tangible interest impact on their interests.

14. Climax states its electric service requirements are unique among Public Service's electric customers and the decision in this proceeding will have significant effects on electricity costs Public Service will seek to recover from Climax.

15. Two classes of parties may intervene in proceedings such as this: parties with a legally protected right that may be impacted by the proceeding (intervention of right), and parties with pecuniary or tangible interests that may be substantially impacted by the proceeding (permissive intervention).

16. In addition, per Rule 1401(e), 4 *Code of Colorado Regulations* (CCR) 723-1 of the Commission's Rules of Practice and Procedure, Staff may intervene of right in any Commission proceeding. Any other person or entity wishing to intervene of right must identify the basis for the legally protected right that may be affected by the proceeding.

17. As relevant here, to permissively intervene, the party's intervention must: . . . 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. . . 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.

18. The person or entity seeking to intervene bears the burden of proof that it has met the intervention standards and should be permitted to intervene.

19. If a party does not file a response to a motion within the time prescribed for a response, the Commission may deem that failure as confessing the motion.

20. Public Service has not filed a response or objection to any of the requests to intervene. As such, the ALJ construes the Intervention as unopposed. Based on this, the information provided in their collective requests to intervene, and the relevant legal standards, the ALJ grants the Interventions of Climax.

III. TIME TO ISSUE A FINAL COMMISSION DECISION

21. Under § 40-6-109.5(1), C.R.S., when a party files testimony with an application, the Commission must issue a final decision within 120 days after the application is deemed complete, unless the Commission finds that additional time is necessary, in which case, this deadline may be extended by an additional 130-days.¹ If the Commission does not make a determination that an application is complete within 15 days of the application's notice period's expiration, and otherwise does not find that the application is not complete or that more information is necessary, the application is automatically deemed complete.²

22. The Commission deemed the Application complete on October 8, 2025. Since the Company filed testimony with its Application, the Commission must issue a final decision within

¹ § 40-6-109.5(1), C.R.S.

² Rule 1303(c)(IV), 4 CCR 723-1.

120 days of date the Application was deemed complete, unless the Commission finds that additional time is necessary.

23. This does not allow enough time for the parties to develop the record and to conduct discovery; to hold an evidentiary hearing; for a recommended decision to issue; for the parties to file exceptions; and for the Commission to address exceptions and issue a final decision. For these reasons, the ALJ finds that additional time is necessary, and therefore extends the statutory deadline for a final Commission decision by 130 days, as allowed by § 40-6-109.5(1), C.R.S.

IV. MOTION FOR EXTRAORDINARY PROTECTION

24. Public Service requests extraordinary protection for competitively sensitive information associated with the Project, including:

- Executed commercial contracts and project agreements the Company entered into with development partners and/or vendors to support the Project (e.g., Amended & Restated Purchase Sale Agreement (“PSA”); Balance of Plant (“BOP”); material supply agreements; and service, maintenance, and warranty agreements) and the negotiated terms and conditions contained therein. It would cause all parties significant competitive harm if the terms and conditions of these agreements became known to competitors, potential counterparties, or potential future customers for both the Company and these vendors. Importantly, these terms and conditions were negotiated with the expectation of confidentiality. If future potential bidders had access to the highly confidential terms and conditions in these contracts, it would disadvantage the Company’s and the counterparties’ negotiating position for future deals and it would jeopardize the Company’s relationship with these counterparties and vendors, and therefore the Company’s ability to obtain favorable contract terms for the Company’s customers.
- Any actual or estimated cost information (including indicative pricing estimates) derived from commercial contracts and project agreements that the Company has entered into with development partners and vendors or other information that could be used to derive cost figures in those documents, to the extent incorporated in any other documents, including testimony and attachments submitted with the Application. It would cause all parties significant competitive harm if the terms of these agreements became known to competitors, potential counterparties, or

potential future customers for both the Company and these vendors. Importantly, if future potential bidders had access to the highly confidential pricing information and cost estimates, it would disadvantage the Company's and the counterparties' negotiating position for future deals and it would jeopardize the Company's relationship with these counterparties and vendors, and therefore the Company's ability to obtain favorable prices for the Company's customers.

- Any actual or estimated cost information associated with land rights for the Project. Such information is proprietary and highly sensitive since the Company's land rights acquisition efforts are ongoing. As is the case for the above-referenced pricing information and cost estimates, if prices that have been negotiated or estimates of those costs became public, it would jeopardize the Company's ability to obtain the lowest prices.
- Any information that is considered highly confidential pursuant to a protective order in related Proceeding No. 21A-0141E (the Company's 2021 ERP & CEP proceeding). This will ensure that information designated as highly confidential in one proceeding does not and cannot become public in a related proceeding.
- Any discovery responses or documents otherwise filed or served in this Proceeding that contain any of this Highly Confidential Information.

25. Public Service requests that the Commission afford extraordinary protection for this information by entering an order that it be treated as highly confidential, with access limited as follows:

The Commission, its Advisory Staff, Commission Administrative Law Judges, members of Trial Staff, employees of the Colorado Office of the Utility Consumer Advocate ("UCA") assigned to this proceeding, and the Assistant Attorneys General representing the Commission, its Staff and the UCA in this proceeding will have access to the Highly Confidential Information;²

Intervenors that do not fall into category (c) below would have access to the Highly Confidential Information restricted, however, to counsel and subject matter experts for such intervenors who provide executed highly confidential non-disclosure agreements in the form provided in Attachment A and Attachment B; and

Intervenors that are developers of energy resources, competitive power producers, competitive suppliers or vendors, existing or potential wholesale customers of developers of energy resources, or entities that might otherwise bid into a future Public Service resource solicitation or compete with the

suppliers or vendors that are counterparties to these agreements may not have access to the Highly Confidential Information.

26. Public Service has included its own non-disclosure agreement for attorneys and subject matter experts with its Motion for Extraordinary Protection

27. No intervenor opposes the Motion for Extraordinary Protection. Public Service strikes a reasonable balance between the need for disclosure so that the intervenors in this matter can protect their interests, with the need of Public Service to protect its own interests.

28. The ALJ finds and concludes that the Motion for Extraordinary Protection meets the requirements of Rule 1101(b) of the Commission's Rules of Practice and Procedure, and establishes that the information for which the Company seeks extraordinary protection is highly confidential. Based upon this finding and the Motion being unopposed, the ALJ will grant the Motion

V. PROCEDURAL SCHEDULE FOR REMOTE HEARING

29. The Parties proposed the following procedural schedule in the Unopposed Motion:

Event	Deadline
Answer Testimony	January 21 , 2026
Rebuttal/Cross Answer Testimony	February 27, 2026
Stipulations/Settlement Agreement	March 11, 2026
Prehearing Motions	March 11 , 2026
Corrections	March 13, 2026
Witness Matrix	March 13, 2026
Response to Prehearing Motions	March 18, 2026
Hearing	March 18-19, 2026

Statements of Position	April 10, 2026
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30. The proposed procedural schedule and discovery procedures are acceptable and shall be adopted.

31. The discovery procedures contained in Commission Rule 1405 shall govern this proceeding. Discovery requests served on Friday or the day before a Holiday must be served by 3:00 p.m. to be considered served that day, or it will be deemed served the next business day.

32. The parties agree that Rules 1100 and 1101 will govern Confidential and Highly Confidential information filed with the Commission or served as discovery responses in this proceeding.

33. The hearing shall be held remotely.

VI. REMOTE EVIDENTIARY HEARING

34. A hearing in the above captioned proceeding shall be scheduled for March 18 and 19, 2026, at 9:00 a.m. as a remote hearing. At the remote hearing, the parties may call witnesses, present evidence, and make arguments in support of their position. Evidence includes documentary exhibits, testimony, and other tangible items that a party wishes the ALJ to consider in reaching a decision as to the allegations in this case.

35. Attachment A to this Decision provides the information addressing how to use the Zoom platform for remotely participating in the remote hearing. Attachment B outlines procedures and requirements for marking and formatting exhibits to facilitate the efficient and smooth electronic evidence presentations at the remote hearing. It is extremely important that the parties carefully review and follow all requirements in this Decision and Attachments A and B.

36. To minimize the potential that the video-conference part of the hearing may be disrupted by non-participants, the link, meeting ID code, and passcode to attend the hearing will be provided to the participants by email before the hearing, and the participants will be prohibited from distributing that information to anyone not participating in the hearing.

A. Unified Numbering System for Hearing Exhibits

37. The Public Utilities Commission Administrative Hearings Section uses box.com to receive and manage exhibits that are first presented in this type of hybrid evidentiary hearing.

38. As such, it is essential that the parties ensure they are able to access and use box.com prior to the evidentiary hearing. To this end, the parties will be provided box.com links and instructions to: (a) upload exhibits for use during the hearing; and (b) download exhibits once they are presented during the hearing.

39. Each party must (a) pre-mark all hearing exhibits with a hearing exhibit number within their assigned number block before uploading the exhibits to the party's designated box.com folder; (b) sequentially page-number each page of exhibits longer than two pages, with the first page number as page 1, regardless of content, before uploading the exhibits to the party's designated box.com folder; and (c) upload all pre-marked exhibits into each party's respective designated box.com folder prior to the presenting them during the hearing.

40. Attachment B outlines procedures and requirements for marking and formatting exhibits aimed at facilitating efficient and smooth electronic evidence presentations at the remote hearing. It is very important that the parties carefully review and follow all requirements in this Decision and Attachments A and B.

41. To efficiently organize the numbering and preparation of exhibits for the hearing, the parties shall use a unified numbering system for all hearing exhibits. Blocks of hearing exhibit numbers are assigned as follows:

- Public Service is assigned hearing exhibit numbers 100 to 299;
- UCA is assigned hearing exhibit numbers 300 to 399;
- Climax is assigned hearing exhibit numbers 400 to 499
- Staff is assigned hearing exhibit numbers 500 to 599.

VII. ORDER

A. It is Ordered That:

1. Consistent with the above discussion, the deadline for a final Commission decision to issue in this Proceeding is extended by 130 days, per § 40-6-111, C.R.S.

2. The Colorado Public Utilities Commission Trial Staff (“Staff”) and the Colorado Office of the Utility Consumer Advocate (“UCA”) are acknowledged as parties as of right in this Proceeding.

3. Consistent with the above discussion, the motion of Climax Molybdenum Company (“Climax”) seeking to permissively intervene in the above-captioned proceeding is granted and they are parties to this proceeding.

4. The Motion for Extraordinary Protection of Highly Confidential Cost Information (“Motion for Extraordinary Protection”) filed by Public Service Company of Colorado (“Public Service”) on May 23, 2025, is granted consistent with the discussion above.

5. Access to the Highly Confidential Information as described above is limited consistent with the discussion above.

6. In order to have access to the highly confidential information, UCA employees and attorneys must have signed, served, and filed the non-disclosure Agreement provided by Public Service.

7. Members of the Commission Trial and Advisory Staff and the Attorneys General representing Trial Staff and Advisory Staff assigned to this proceeding must have signed and have on file with the Commission a current annual non-disclosure agreement in accordance with Commission Rule 4 *Code of Colorado Regulations* 723-1-1100(h) prior to gaining access to the Highly Confidential information.

8. All provisions enumerated above are now in effect regarding the Highly Confidential Information

9. The procedural schedule as stated in the Unopposed Motion and contained above is adopted.

10. A remote hearing is scheduled as follows:

DATE: March 18-19, 2026

TIME: 9:00 a.m.

PLACE: By video conference: using the Zoom web conferencing platform at a link be provided to the participants by email.

11. The parties and witnesses may not distribute the Zoom link and access code to anyone not participating in the remote hearing.

12. All participants in the hearing must comply with the requirements in Attachments A and B to this Decision, which are incorporated herein and, in the discussion above.

13. All evidence must be presented electronically. Each party is responsible for ensuring that they and their respective witnesses: (a) have access to all pre-filed exhibits; and (b) can download and view documents available from box.com during the hearing.

14. The Parties shall be held to the advisements in this Decision.

15. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ROBERT I. GARVEY

Administrative Law Judge

ATTEST: A TRUE COPY

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

Rebecca E. White,
Director