

Decision No. C23-0375-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 22A-0563E

IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR THE CONVERSION OF PAWNEE GENERATING STATION FROM COAL OPERATIONS TO NATURAL GAS OPERATIONS.

**INTERIM COMMISSION DECISION
REFERRING MATTER TO AN ADMINISTRATIVE LAW
JUDGE AND INCLUDING DISCUSSION OF THE
POTENTIAL ESTABLISHMENT OF A PERFORMANCE
INCENTIVE MECHANISM ENCOMPASSING THE
CONVERSION**

Mailed Date: June 6, 2023
Adopted Date: May 31, 2023

I. BY THE COMMISSION

A. Statement

1. On December 20, 2022, Public Service Company of Colorado (Public Service or the Company) filed an Application for a Certificate of Public Convenience and Necessity (CPCN) for the Conversion of the Pawnee Generation Station from Coal Operations to Natural Gas Operations (Application). Public Service also filed a Motion for Leave to File Supplemental Direct Testimony (Supplemental Direct Motion) requesting to file additional testimony in support of the approval of the Application.

2. By Decision No. C23-0130, issued on February 23, 2023, the Commission set the Application for hearing, established the parties to this proceeding, and granted the Supplemental Direct Motion. The Commission stated that it shared the concerns of the intervening parties

regarding the increase in the estimated cost of the conversion project and was interested in the additional information regarding the project. The Commission further stated that it would determine whether to refer this matter to an Administrative Law Judge (ALJ) or to hear the case *en banc* following Public Service's submission of its Supplemental Direct Testimony.

3. On May 15, 2023, Public Service filed Supplemental Direct Testimony.

4. By this Decision, we refer the matter in its entirety to an ALJ for a recommended decision on the Application, including for determinations on whether Public Service should be granted a CPCN for the conversion project and whether the project should be subject to a Performance Incentive Mechanism (PIM).

B. Discussion

5. Public Service explains in the Application that the conversion of the Pawnee Generating Station (Brush Coal Plant) is a component of the Company's Coal Action Plan that was included in the partial settlement agreement approved, in part,¹ in Proceeding No. 21A-0141E (Updated Settlement). The conversion of the Brush Coal Plant to operate on natural gas instead of coal by the end of 2025 is one component of a larger plan to enable emissions reductions consistent with the Company's target to reduce its carbon emissions by over 80 percent by 2030. Public Service also states that converting Brush Coal Plant will maintain a 505 MW dispatchable resource and retain area jobs and tax base.

6. Public Service will principally conduct the conversion of the Brush Coal Plant in or around the fall of 2025. Public Service states that it requests flexibility to advance the

¹ See Decision No. C22-0459, issued August 3, 2022 (Phase I Decision). *See also*, Decision No. C22-0559, issued September 21, 2022 (addressing requests for rehearing, reargument, or reconsideration to the Phase I Decisions).

conversion timeline if it believes it can reasonably do so while maintaining system reliability, resource adequacy, and the cost reviewed by the Commission through this proceeding.

7. At the time the Company filed the Application, Public Service forecast a cost of approximately \$85 million to conduct the conversion, with the caveat that these costs would be further informed by the ongoing studies that will be part of the Supplemental Direct Testimony. The \$85 million figure is significantly higher than the \$44 million estimate used by the Company in the development and presentation of its Clean Energy Plan in Proceeding No. 21A-0141E.

8. In Direct Testimony filed with the Application, Public Service argues that since the time that the Updated Settlement was reached in Proceeding No. 21A-0141E, the Company updated the cost estimates to align more accurately “with today’s pricing” based on “clearer understanding of the scope of the work required to perform the conversion.”² Public Service also states in Direct Testimony that it does not seek an advance presumption of prudence for the conversion costs, but it does request that the Commission confirm that Public Service will recover all costs that it reasonably and prudently incurs for the conversion, consistent with the requested CPCN approval.³

9. In its Application, Public Service requests that the Commission (1) issue a CPCN for the conversion of the Brush Coal Plant from coal to gas operations; (2) generally approve the Company’s proposed plan, project timeline, construction schedule and costs for the conversion, to be supplemented by Supplemental Direct Testimony; (3) confirm that Public Service will recover all costs that it reasonably and prudently incurs for the conversion, consistent with the CPCN

² Hearing Exhibit 102, Kelly Direct Testimony, p. 27.

³ Application, p. 4.

approval; (4) approve the flexibility for the Company to advance the conversion timeline, if appropriate; and (5) approve the project-reporting timing and content as proposed by the Company.

10. According to Public Service, the three studies filed with the Supplemental Direct Testimony have largely confirmed project scope, project timeline, and construction schedule for the conversion of the Brush Coal Plant. Total project costs, however, while staying similar to those included in the Application, have changed in their composition. Specifically, the Company represents that total budgeted costs have increased from \$63.5 million to \$76.5 million, while risk reserve costs have decreased from \$21.5 million to \$6.5 million, the latter due to greater precision allowed by consultant study findings.

11. Public Service further explains in its Supplemental Direct Testimony that the Company elected to submit additional testimony to provide “additional context to the Company’s position regarding the appropriateness of a PIM in this proceeding.”⁴ Public Service explains that it did not recommend or propose a PIM in Direct Testimony, arguing that using the existing stakeholder group for developing any potential PIM related to the conversion as part of the Company’s Clean Energy Plan in Proceeding No. 21A-0141E would achieve administrative efficiencies. Public Service states that the schedule for the development of that PIM begins no later than September 1, 2023, with a proposal filed with the Commission by October 17, 2023.⁵

12. Public Service takes the position that the recently completed studies offered in Supplemental Direct Testimony “should provide some comfort to the Commission and

⁴ Hearing Exhibit 103, Pascucci Supplemental Direct Testimony, p. 5.

⁵ These dates are included based on the current August 18, 2023, deadline for the Company’s 120-Day Report on request for proposal bid evaluation and selection in Proceeding No. 21A-0141E.

stakeholders that the Company's current budget estimates are sound.”⁶ Nevertheless, the Company puts forward for the Commission's consideration a targeted PIM for the project.

C. Findings and Conclusions

13. The Commission finds good cause to refer this matter to an ALJ for a recommended decision. Pursuant to § 40-6-109, C.R.S., the ALJ's recommended decision will address the merits of the Application, including whether Public Service should be granted a CPCN for the conversion project and whether the project should be subject to a PIM through a final decision in this proceeding.

14. We are troubled by the substantial increase in the cost estimate for the conversion. In approving, in part, the Updated Settlement in Proceeding No. 21A-0141E, the Commission relied on the earlier cost estimate of \$44 million for the conversion of the Brush Coal Plant no later than January 1, 2026, as part of the Company's developing Clean Energy Plan. The cost estimate put forward by Public Service was also relied upon for the authorization for the Company to file a “limited-scope CPCN” for the plant's conversion as sought by the Application.⁷

15. As explained in the Phase I Decision in Proceeding No. 21A-0141E, the Commission has established a framework in which Public Service may advance its Clean Energy Plan toward final consideration and approval. In accordance with the directives in the Phase I Decision, Public Service will present in the 120-Day Report the information the Commission needs to make the required statutory findings, including without limitation, § 40-2-125.5, C.R.S., findings on the projected costs of the Clean Energy Plan's implementation and whether the

⁶ Hearing Exhibit 103, Pascucci Supplemental Direct Testimony, p. 13.

⁷ Phase I Decision, ¶ 52, p. 25.

proposed utility ownership of generation resources comes at a reasonable cost and rate impact.⁸ The Phase I Decision further requires Public Service to file significantly more detail on anticipated cost recovery mechanisms to be used in the future as part of the 120-Day Report, thus providing the Commission with a roadmap for understanding the impact of approving any preferred portfolio on rates and riders prior to 2030. Specifically, Public Service must present all actions and investments that are projected to satisfy the clean energy targets and that are reflected in the preferred portfolio, pursuant to § 40-2-125.5(4)(a)(IV), C.R.S.⁹

16. Public Service correctly observes in its Supplemental Direct Testimony that the Updated Settlement in Proceeding No. 21A-0141E includes provisions for the development and presentation of a PIM for emissions reductions, including the relative cost effectiveness of the emissions reductions, associated with the Clean Energy Plan. The Commission determined in the Phase I Decision that any proposed emissions reduction PIM must account for reliability, deeper emission reductions, emission reductions achieved sooner than required, and overall rate impacts to customers. The Commission further determined that the baseline for assessing Public Service's emissions reduction performance should be the cost, level, and timing of expected emissions from the approved Phase II portfolio. The PIM should be symmetrical in structure with the possibility for both a penalty and a bonus, and both the penalty and bonus should be of significant dollar value to motivate appropriate utility performance. The emission reductions that the PIM rewards should result from structural or operational changes in the Company's system at a reasonable cost to customers.¹⁰

⁸ Phase I Decision, ¶ 518-519, pp. 182-183.

⁹ Phase I Decision, ¶ 135, pp. 59-60.

¹⁰ Phase I Decision, ¶ 391, pp. 141-142.

17. The doubling of the costs of the conversion since the issuance of the Phase I Decision seriously complicates the development of a PIM that encompasses the conversion of the Brush Coal Plant, whether the PIM emerges from this proceeding or in the wake of the Phase II decision on the Clean Energy Plan. We are interested in the parties addressing the establishment of the correct cost baseline for a potential PIM that would not result in rewarding Public Service for cost savings beginning from a point substantially higher than the previously presented cost estimates relied on by the Commission in its Phase I Decision.

18. In accordance with the discussion above, we further see potential benefits in the ALJ adopting a procedural schedule that may appropriately enable parties to raise information in the 120-Day Report filed in Proceeding No. 21A-0141E in the presentation of their cases this proceeding.

19. Finally, we are interested in the parties examining the issues surrounding the dependability and use of costs estimates of utility projects relied upon in an electric resource plan proceeding, in both Phase I and Phase II, as well as in follow-on proceedings, such as this Application seeking a CPCN for the Brush Coal Plant conversion. In contrast to utility projects, the winning bids to a competitive solicitation in an electric resource plan result in contracts with third parties who cannot double the price of their offers at a later date without contractual consequences. The Commission requires accurate information when making resource decisions. We therefore welcome party input in avoiding any potential for “bait and switch” in cost estimates over time.

II. ORDER

A. It Is Ordered That:

1. This matter is referred to an Administrative Law Judge for a recommended decision pursuant to § 40-6-109, C.R.S., consistent with the discussion above.

2. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
May 31, 2023.**

(S E A L)



ATTEST: A TRUE COPY

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

Rebecca E. White,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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MEGAN M. GILMAN

TOM PLANT

Commissioners