

Decision No. C23-0672-I

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 SETTING DEADLINE FOR
INITIAL COMMENTS ON RISK-SHARING MECHANISM AND OTHER
PERFORMANCE INCENTIVE MECHANISMS**

Mailed Date: October 6, 2023
Adopted Date: October 4, 2023

I. BY THE COMMISSION

A. Statement

1. Through this Decision, the Commission directs Public Service Company of Colorado (Public Service or the Company)—and invites the other parties in this Proceeding—to file comments no later than October 20, 2023, regarding a symmetric risk sharing mechanism on the Company-owned projects proposed in the Preferred Plan. The comments shall also address any interaction between the ongoing stakeholder performance incentive mechanism (PIM) and the project-specific risk sharing mechanism.

2. In addition to initial comments, as discussed below, the Company and parties are also permitted to address the policy concerns and risk sharing mechanism raised to address these concerns further in intervenor comments and Company response comments, which shall be filed on deadlines established in Decision No. C23-0647-I, issued September 27, 2023.

B. Discussion

3. The Company filed its 120-Day Report on September 18, 2023. The 120-Day Report summarizes the results of the Company's Phase II modeling and puts forth a Preferred Plan for Commission approval. Under the Preferred Plan, the Company would move forward with developing numerous generation resources.

4. The Preferred Plan includes higher levels of Company-owned projects compared to more recent electric resource plan (ERP) cycles.¹ Out of the 7,192 MW of nameplate capacity additions that would be acquired under the Preferred Plan, Public Service would own 66.6 percent of the capacity and 69.7 percent of the energy.²

5. The Commission notes that in other contexts, costs, performance, or scheduling issues have increased costs for customers relative to the initial estimates the Company provided. For example, it appears that actual costs associated with the conversion of the Pawnee coal plant (the Brush coal plant) will be significantly higher than the estimates the Company put forth in Phase I of this Proceeding.

6. A successful competitive bidding process relies upon some degree of price certainty for the Commission to make informed decisions, to promote fairness amongst the bidders, and to provide necessary protections to ratepayers. Recent competitive bidding processes have included examples of company-owned projects that have exceeded estimated budgets, sometimes significantly, and may not meet intended timelines. At the same time, independent power producer (IPP) bids are contractually bound to price, timelines, and performance benchmarks, especially in the later years of the power purchase agreements. Moreover, material changes to the cost, timing

¹ See 120-Day Report, pp. 40-41.

² *Id.* at 38.

and performance metrics of a project could impact the justification of the determinations made in the ERP process. Accurate cost, timing and performance metrics could change the Commission's determinations, leading to better outcomes for ratepayers. These concerns are amplified by the magnitude of the Company-owned generation projects proposed in the Preferred Plan. Given our policy concerns, we find it appropriate to seek Company and stakeholder input regarding certain performance incentives and corresponding ratepayer protections in this Phase II proceeding.

7. Accordingly, we direct that the Company submit comments outlining a potential symmetric risk sharing mechanism that applies to Company-owned projects contained in the Preferred Plan. The goal of this project-specific mechanism would be to better align customer and utility incentives, treat Company-owned generation projects in ways that are at least somewhat closer to the risks that are routinely imposed on IPP projects, and to ensure reasonable costs for customers. We suggest that the Company examine using the levelized energy cost and levelized cost of capacity set forth in Appendix P to the 120-Day Report as a starting point, with the Company sharing any savings or cost overruns that diverge from that starting point. A sharing mechanism that helps address these policy concerns should be meaningful. For example, the Company could share 20 to 50 percent of the savings or cost overruns on a sliding scale where the percentage increases as the divergence from the initial expectations used in Phase II increases.

8. In addition, the Company's comments should address the ongoing stakeholder PIM process that we directed in Phase I. Specifically, the Company should evaluate any interaction between a proposed symmetric risk-sharing mechanism to be applied to each Company-owned project via a Phase II determination, and the emissions reduction PIM that the Phase I decision directs.

9. While Public Service shall file these comments on a risk sharing mechanism and its potential interaction with the stakeholder PIM process, in addition to the Company, we also invite the other parties in this Proceeding to consider, confer, and provide comment on these issues.³ Company comments and any initial comments from parties are due no later than October 20, 2023. However, intervenors can also provide comments on the risk sharing mechanism as part of their comments on the 120-Day Report, which are due on November 8, 2023.⁴ Similarly, Public Service may respond to intervenor comments on the risk sharing mechanism as part of the Company's response comments on the 120-Day Report, which are due on November 20, 2023.⁵

10. Importantly, we raise a symmetric risk sharing mechanism implemented in this Proceeding, concurrent with Commission's Phase II decision as a means of addressing our stated policy concerns that afford ratepayer protections, while at the same time continuing our aim to reach resolution of Phase II through a decision on current timelines. Consistent with the anticipated timeline, we continue to work to reach an appropriate resolution of Phase II of this Proceeding before the end of the year.

II. ORDER

A. The Commission Orders That:

1. No later than October 20, 2023, Public Service Company of Colorado shall submit comments outlining a potential symmetric risk sharing mechanism and any interactions between

³ The Company and parties are encouraged to include conferral efforts and agreement, if any, in their respective comments.

⁴ Decision No. C23-0647-I, issued September 27, 2023, p. 7.

⁵ *Id.*

such a risk sharing mechanism and the stakeholder performance incentive mechanism directed in Phase I, consistent with the discussion above.

2. The intervenors in this Proceeding may also submit comments on the potential symmetric risk sharing mechanism no later than October 20, 2023, consistent with the discussion above.

3. The Company and intervenors may further include comments regarding a proposed risk sharing mechanism in their respective comments, with current comment deadlines provided in Decision No. C23-0647-I, issued September 27, 2023

4. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
October 4, 2023.**

(S E A L)



ATTEST: A TRUE COPY

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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MEGAN M. GILMAN

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Commissioners

Rebecca E. White,
Director