

Decision No. C24-0587-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: REQUIRING RESPONSIVE TESTIMONY AND FILINGS; SCHEDULING HEARING; ESTABLISHING PROCEDURES FOR EVIDENTIARY HEARING; AND REQUIRING EMISSION REDUCTION PERFORMANCE INCENTIVE MECHANISM PROPOSAL IN SEPARATE PROCEEDING

Issued Date: August 14, 2024

Adopted Date: August 7, 2024

TABLE OF CONTENTS

I.	BY THE COMMISSION	2
	A. Statement	2
	B. Procedural Background	2
	C. Stakeholder Proposal, Supplemental Filings, and Comments.....	5
	D. Unit 3 Performance Incentive Mechanism Supplemental Filings and Hearing	11
	E. Emissions Reduction Performance Incentive Mechanism	15
II.	ORDER.....	17
	A. The Commission Orders That:	17
	B. ADOPTED IN COMMISSIONERS’ WEEKLY MEETING August 7, 2024.....	18

I. BY THE COMMISSION**A. Statement**

1. This Decision requires filings from the Public Service Company of Colorado (“Public Service” or the “Company”) by August 28, 2024; schedules a fully remote evidentiary hearing on September 17, 2024, from 9:00 a.m. to 12:00 p.m., and on September 18, 2024, from 1:00 p.m. until 5:00 p.m., to address the Pueblo Unit 3 Performance Incentive Mechanism (“PIM”); establishes procedures and deadlines related to that hearing, including requiring a witness list, corrections to pre-filed testimony, and any other pre-hearing filings by September 6, 2024.

2. The Commission further directs through this Decision that the Company shall file a proposed emission reduction PIM either in the upcoming Pueblo Just Transition Solicitation (“JTS”), currently due no later than October 15, 2024,¹ or through a separate application filing. Whether filed in the JTS or separately, the emission reduction PIM shall be proposed no later than 90 days from the issuance of this Decision.

B. Procedural Background

3. The Phase I Settlement Agreement and the Phase I Decision contemplate the development of both a stakeholder PIM addressing Pueblo Unit 3’s Operation and Maintenance (“O&M”) expenses, capital costs, and availability factor, and an emissions reduction stakeholder PIM.² After Public Service filed the stakeholder PIMs, the Phase I Settlement Agreement and Phase I Decision further include that parties would have a comment period followed by, if necessary, a limited and expedited evidentiary hearing.³

¹ Decision No. C24-0513, Proceeding No. 21A-0141E, issued July 17, 2024.

² Phase I Settlement, ¶ 50; Decision No. C22-0459, Proceeding No. 21A-0141E, issued September 21, 2022 (“Phase I Decision”), ¶¶ 391-92. A full procedural background regarding this proceeding is captured in prior orders. Discussion here is limited to the decision and timeline processes pertinent to the follow-on PIM stakeholder processes.

³ Updated Settlement Agreement, ¶ 51; Phase I Decision, ¶ 389.

4. Under the Phase I Decision and Phase I Settlement, Public Service was supposed to file the PIM proposal 60-days after the filing of the 120-Day Report, which would have been November 17, 2023.⁴ However, on November 14, 2023, Public Service filed an Unopposed Motion for Partial Variance from Decision No. C22-0459 (“Motion for Partial Variance”). In this Motion for Partial Variance, Public Service asked the Commission to allow the Company until January 16, 2024, to propose a new timeline for filing the Company’s proposed PIMs and supporting testimony. In Decision No. C24-0337, the Commission granted the Motion for Partial Variance.

5. Public Service ultimately filed its Stakeholder PIM on April 30, 2024,⁵ via the testimony of Michael Pascucci. The Stakeholder PIM addresses Unit 3’s capital costs, O&M expenses, and availability factor. However, Public Service represents that the Company and stakeholders are not yet ready to bring forward an emissions PIM for approval.

6. In Decision No. C24-0337,⁶ the Commission directed Public Service to make a supplemental filing that includes, in one document, the actual and projected capital expenses by project for 2023 through 2030 for Unit 3. The Commission detailed the requirements for the supplemental filing and ordered Public Service to submit it by May 29, 2024.⁷ In addition, the Commission extended the deadline for intervenors to provide feedback on the Company’s stakeholder PIM proposal to June 7, 2024, and required interested intervenors to file any such responses in the form of written testimony.

⁴ Decision No. C23-0795, issued November 30, 2023, p. 2.

⁵ Consistent with Decision No. C23-0795, on January 16, 2024, Public Service made a filing in which it proposed to file the stakeholder PIM and supporting testimony by April 30, 2024. In this filing, Public Service states that it conferred with the other stakeholders and no stakeholders stated opposition to the proposed timeline.

⁶ Issued on May 17, 2024.

⁷ Decision No. C24-0337, ¶¶ 14-15. On May 29, 2024, Public Service filed its response via supplemental written testimony.

7. In Decision No. C24-0337, the Commission also invited intervenors and Public Service to address another approach to addressing capital expenditures associated with Unit 3 intended to limit Public Service's ability to profit on capital expenditures that the Company did not accurately forecast. More specifically, under this alternative approach, the Commission would allow the Public Service to place into rate base prudently incurred Unit 3 capital expenditures up to whatever level such capital expenditures were forecasted as part of the Phase II modeling process. For all other prudently incurred capital expenditures over and above the Phase II modeling forecasts, the Commission would treat the expenditures like an expense item potentially eligible for full one-time cost recovery that could be litigated at the time of the next rate case.⁸

8. On May 28, 2024, Trial Staff of the Commission ("Staff") filed Rehearing, Reargument, or Reconsideration ("RRR"), requesting that the Commission permit intervenors to file comments in response to Public Service's Stakeholder PIM instead of testimony. Staff also requested that the Commission extend the deadline for intervenors to respond to the Company's stakeholder PIM from June 7, 2024, to June 24, 2024

9. On May 29, 2024, the Company filed the supplemental testimony consistent with Decision No. C24-0337.

10. In Decision No. C24-0392, issued June 6, 2024, the Commission granted Staff's RRR and extended the deadline for responsive testimony to June 24, 2024. However, the Commission noted that testimony may be useful should a hearing be scheduled. The Commission directed that parties could exercise their discretion and respond to Public Service's proposed PIM through either written testimony or comments.⁹

⁸ Decision No. C24-0337, ¶ 17.

⁹ Decision No. C24-0392, p. 4.

11. On June 24, 2024, Colorado Energy Office (“CEO”), Staff, Western Resource Advocates (“WRA”), and the Utility Consumer Advocate (“UCA”) (collectively, the “Joint Commentors”) filed “Joint Comments.” Climax Molybdenum Company (“Climax”) also filed comments, which the Colorado Energy Consumers (“CEC”) support. And finally, Staff filed Hearing Exhibit 2708, the written testimony of Erin O’Neill.

C. Stakeholder Proposal, Supplemental Filings, and Comments

12. Through its filings, Public Service explains that it first convened Staff, CEO, and WRA (“Initial PIM Discussion Parties”) to begin discussions of both an emissions reduction PIM and the Unit 3 PIM. These Initial PIM Discussion Parties met repeatedly throughout January, February, and March.¹⁰ Regarding the rest of the intervenors, Public Service states that beginning in March, the Company convened two virtual discussions, inviting all parties to the Proceeding, and also provided additional follow up via email.¹¹

13. Starting with the Unit 3 PIM, Public Service represents that Staff and WRA both support the proposed Unit 3 PIM and that CEO does not oppose it.¹² Public Service states that with the Initial PIM Discussion Parties it developed a “cost of availability” PIM that incorporates capital, O&M, and availability metrics all in one PIM.¹³

14. At a high level, the proposed PIM takes the fixed O&M and capital costs (as assumed in the Phase II modeling) and then uses the 502.8 MW capacity of the plant together with the availability factor (again, from the Phase II assumptions) to create a \$/MW value. This is the baseline value to which the Company’s actual performance will be compared against in order to

¹⁰ PIM Testimony of Michael Pascucci, p. 10.

¹¹ PIM Testimony of Michael Pascucci, p. 10.

¹² PIM Testimony of Michael Pascucci, p. 10.

¹³ PIM Testimony of Michael Pascucci, p. 11.

determine if an incentive or disincentive is achieved in a given year.¹⁴ If costs exceed a ten percent deadband, then the Company would share 20 percent of the overages (and vice versa).¹⁵ In addition, there is an annual \$1 million cap on the incentive/disincentive.¹⁶ Penalties and incentives will be calculated on an annual basis as part of the annual Electric Commodity Adjustment (“ECA”) and Purchased Capacity Cost Adjustment (“PCCA”) prudence reviews.¹⁷ And finally, the PIM is proposed to begin on January 1, 2025, and conclude at the earlier of December 31, 2030, or the actual retirement date of Unit 3.¹⁸

15. Public Service notes the variable O&M costs are excluded from the Unit 3’s baseline costs. The Company reasons that variable O&M costs such as chemicals and greenhouse gas emissions fees are outside the Company’s control and are simply a factor of plant dispatch. Non-energy supply O&M are also similarly excluded from the baseline costs of the Unit 3 PIM. The Company reasons that excluding non-energy supply O&M is consistent with how unit costs were evaluated as part of the Unit 3 investigatory proceeding.¹⁹

16. As required in Decision No. C24-0337, in its supplemental filings Public Service provides more information regarding the capital expenditures (both actual and forecasted) associated with Unit 3, responds to the Commission’s alternative cost recovery proposal for Unit 3, and provides more context regarding the emissions reduction PIM.

17. Public Service notes that it has provided four forecasts of capital expenditures since this Proceeding began in March 2021: (1) the Phase I forecast covering the period from 2021 through 2040, (2) the 2023 ERP Annual Report filed on March 31, 2023, which included a

¹⁴ See PIM Testimony of Michael Pascucci, p. 13.

¹⁵ PIM Testimony of Michael Pascucci, p. 19.

¹⁶ PIM Testimony of Michael Pascucci, pp. 20-21.

¹⁷ PIM Testimony of Michael Pascucci, p. 21.

¹⁸ PIM Testimony of Michael Pascucci, p. 21.

¹⁹ PIM Testimony of Michael Pascucci, pp. 13-14

five-year capital forecast from 2023 – 2027, (3) the Phase II Forecast, which ran through 2030,²⁰ and (4) the 2024 ERP Annual Report filed March 31, 2024, which included a five-year capital forecast from 2024-2028 capital forecast.²¹ Attachment MVP-2 provides an accounting on a project level basis of these four forecasts.

18. The Company argues the Phase I Forecast is generally not comparable to the other forecasts because it assumed a very different lifespan and operational assumptions for Unit 3. At the beginning of Phase I, the Company proposed a 2040 retirement date, but in the Phase I Decision, the Commission approved a January 1, 2031, retirement date with significantly reduced capacity factors in the plant’s remaining years.²² These changes required modifications to the Company’s capital forecast. Thus, the Company primarily explains the deviations between the 2023 ERP Annual Report, the Phase II Forecast, and the 2024 ERP Annual Report.²³

19. In its Supplemental Filing, Public Service emphasizes that the Company’s annual capital expenditure forecasts are below what was provided in the Company’s Phase II modeling.²⁴ Public Service attributes these capital expenditure reductions to two primary drivers: (1) the capital expenditures shifting between years, particularly with the auxiliary (“AUX”) boiler project, and (2) project scope changes or cancellations.²⁵

20. Public Service asserts that the AUX boiler project was necessitated by the retirement of Comanche Unit 2, which currently provides auxiliary steam to Unit 3, but is set to

²⁰ The Company notes that the Phase II Forecast included the AUX boiler and emergent capital expenses. While the Phase II Forecast was not provided as a separate attachment or exhibit in Phase II, the Company states that it was included in the Encompass modeling and in the input and output files available to intervenors. (Pascucci Supplemental PIM Testimony, p. 13).

²¹ Pascucci Supplemental PIM Testimony, p. 10-11.

²² Pascucci Supplemental PIM Testimony, p. 14.

²³ Pascucci Supplemental PIM Testimony, p. 15.

²⁴ See Pascucci Supplemental PIM Testimony, pp. 10, 25.

²⁵ Pascucci Supplemental PIM Testimony, p. 16-17.

retire at the end of 2025. To ensure that Unit 3 continues to have an auxiliary steam supply, the Company explains that it is installing a new AUX boiler. Public Service notes this project experienced construction delays that pushed a large portion of the 2023 anticipated spending into 2024 and price increases due to significant labor price escalations.²⁶ The most recent forecast (the 2024 ERP Annual Report Forecast) estimates a total of approximately \$20 million for the AUX boiler project, which includes roughly \$5.7 million that was spent in 2023.

21. Regarding the second driver—project scope changes or cancellations—Public Service provides examples of several projects in which the actual costs differed from the forecasted costs. For example, the Company produced less coal ash than anticipated, which ultimately allowed the Company to reduce its capital expenditures relating to coal ash work. Similarly, the Company was able to combine two related capital projects (Bag Filters A and B) to save money.²⁷

22. The Company also notes that approximately \$1.7 million to replace a MATS burner was included in the Phase II forecast, “but inadvertently excluded from both the 2023 ERP Annual Report Forecast and 2024 ERP Annual Report Forecast.”²⁸ Public Service expects to complete the project in 2024 with final costs available in early 2025.

23. The Company notes that in the Phase II Forecast it includes emergent capital expenses, which the Company describes as “a forecasted risk reserve for expected capital expenses estimated, but not specifically defined, at the time of the forecast.”²⁹

24. The Company describes several instances in which the emergent capital expenditures that were included in the Phase II Forecast deviate from the more recent forecasts.

²⁶ Pascucci Supplemental PIM Testimony, p. 17-18.

²⁷ Pascucci Supplemental PIM Testimony, pp. 19-20.

²⁸ Pascucci Supplemental PIM Testimony, p. 20.

²⁹ Pascucci Supplemental PIM Testimony, p. 22.

For instance, in the 2025 calendar year, Public Service reserved \$2 million in emergent capital expenditures. In the most recent 2024 ERP Forecast, however, the Company now estimates that it will only need to spend \$700,000 in capital expenditures during the 2025 calendar year. For 2026, the \$3 million in emergent capital expenditures reserved in the Phase II Forecast more closely matches the \$2.8 million in capital expenditures estimated in the 2024 ERP Forecast. For 2027, however, the Phase II Forecast reserved \$3 million in emergent capital expenditures, but the 2024 ERP Forecast only estimates about \$9,000 will be used from this \$3 million in emergent capital expenditures.

25. Regarding this deviation for 2027, Public Service explains that about \$2.5 million of the reduction results from the Company being able to advance a capital project from 2027 to 2023-2024.³⁰ In addition, Public Service states that the emergent capital expenditures for 2027 was inadvertently removed from the 2024 ERP Forecast even though the Company “still expects emergent capital expenses to materialize over the coming years.”³¹ Public Service asserts that when the emergent costs are added back in, the 2024 ERP Forecast more closely aligns with the Phase II Forecast.

26. Public Service notes a similar issue for 2028. The Phase II Forecast includes \$3 million in emergent capital expenditures, but the 2024 ERP Forecast only estimates \$180,000 in identified capital expenditures and no emergent capital expenditures. The Company states that not having any emergent capital expenditures for 2028 in the 2024 ERP Forecast is an oversight and it “still expects emergent capital expenses to materialize over the coming years.”³²

³⁰ Pascucci Supplemental PIM Testimony, p. 23 (“the Company advanced, and combined for construction efficiency, the bag house projects which resulted in approximately \$2.5 million in reduced capital expenditures in 2027”).

³¹ Pascucci Supplemental PIM Testimony, p. 23.

³² Pascucci Supplemental PIM Testimony, p. 23-24.

27. In its Response Testimony, Staff affirms that it supports the Unit 3 PIM as proposed. Staff argues the Unit 3 PIM implements a comprehensive mechanism that addresses the operating costs, the capital addition costs, and the unit performance combined in a single mechanism. Staff agrees with the Commission's concern with how the Company changes its forecasted spending, but argues the Unit 3 PIM is a step towards holding the Company accountable for its forecasts.³³ While Staff supports the Unit 3 PIM, it suggests that the Commission require Public Service to provide supplemental information regarding the plant's O&M forecasts by vintage (as was required for capital expenses). Staff also points out a potential error in the Company's capital expenditure forecasts and requests the Company correct the error.³⁴

28. Staff acknowledges expenditures in 2023 and 2024 will not be subject to the Unit 3 PIM, but notes these expenditures also are not currently in rate base. As to these 2023 and 2024 expenditures, Staff raises a specific concern with the \$20 million for the AUX boiler. Staff notes that Public Service included none of these projected \$20 million in capital costs in its ERP Phase I analysis.³⁵

29. As for the Commission's alternative cost recovery proposal Staff opines that this approach would apply additional pressure on Public Service's capital additions and that doing so makes intuitive sense given that additional capital additions will be stranded once Unit 3 retires. Staff goes on to state the alternative cost recovery concept seems best designed to address large changes in the capital expenditure forecasts, such as the AUX boiler. Staff suggests the Commission adopt this approach for the period of time before the PIM is implemented or

³³ Staff's Response Testimony, p. 8.

³⁴ Staff's Response Testimony, pp. 13-14.

³⁵ Staff's Response Testimony, pp. 13-14.

alternatively order the Company to model and present the impact of alternative cost recovery approach for 2023 and 2024 in its next electric rate case.³⁶

30. In addition to Staff's Response Testimony, on June 27, 2024, the Commission received a robust public comment specific to this consideration. The public comment requests that the Commission call out Public Service for significantly increasing its Phase II capital expenditure projections for Unit 3 and argues the Company is setting itself up both to profit from the pre-2025 capital expenditures and is "setting the table" to earn an incentive via the PIM for coming in below the Phase II projected capital expenditures.

31. The Public comment requests that the Commission review all proposed capital expenditures for Unit 3 and consider whether these are prudent given the unfolding climate catastrophe and the availability of low-cost wind, solar, and storage projects.

D. Unit 3 Performance Incentive Mechanism Supplemental Filings and Hearing

32. Despite our significant efforts to elicit sufficient information from the Company and settling parties regarding the proposed Unit 3 PIM, we are not yet convinced that adopting the proposed PIM is in the public interest. We therefore require additional information from the Company, and we schedule a hearing such that the Company and other parties can support their proposal.

33. A remote hearing in this matter is therefore scheduled for the morning of September 17 and the afternoon of September 18, 2024.

34. We agree with Staff that additional clarity regarding the Unit 3's O&M expenditures would benefit both the Commission and stakeholders. Indeed, we recognized this in our Phase I Decision where we directed Public Service to provide in its annual ERP progress

³⁶ Staff's Response Testimony, pp. 17-19.

reports “the actual O&M expenditures for Unit 3, broken down by fixed and variable costs.”³⁷ In subsequent 2023 Annual Progress Report, however, Public Service notes the Company “does not differentiate actual O&M costs between fixed and variable costs; rather, the O&M costs are broken down by major cost categories.”³⁸ Nevertheless, for purposes of the Unit 3 PIM the Company does differentiate between variable and fixed O&M costs in that it excludes variable O&M from the Unit 3 baseline.³⁹

35. Accordingly, Public Service shall provide the actual (to the extent available) and forecasted O&M expenses by vintage (*i.e.* the O&M forecasts from Phase I, the Phase II modeling, the 2023 Annual Progress Report, and the 2024 Annual Progress Report), showing both the total O&M and the O&M broken down by fixed and variable costs. Consistent with what we required for capital expenditures,⁴⁰ Public Service must show in one document the Company’s forecasts for O&M expenditures (broken out by fixed and variable) for 2023-2030 and then, to the extent available for years 2023 and 2024, the actual O&M expenditures (broken out by fixed and variable). The Company shall present a comparison of values and explain any discrepancies between projected expenditures and actual expenditures. This data must clearly distinguish which costs are common to Comanche Station versus those costs specific to Unit 3 and whether the expenditures represent the total costs or only the portion of the costs for which Public Service is responsible. The Company must also identify the reasoning for any major changes in forecasted expenditures. Finally, Black Hills shall include data linking the variable O&M expenses with actual and forecasted dispatch levels of Unit 3, in MWh. Public Service shall also provide a

³⁷ Phase I Decision, ¶ 86.

³⁸ 2023 ERP & CEP Annual Progress Report, p. 18.

³⁹ PIM Testimony of Michael Pascucci, p. 19.

⁴⁰ Decision No. C24-0337, ¶ 14.

narrative description explaining the interaction between the dispatch of Unit 3 and the variable O&M expenditures.

36. In this same filing setting forth the O&M data, Public Service shall further explain why it does not differentiate actual O&M costs between fixed and variable costs in its Annual ERP Progress reports, despite being ordered to do so by the Phase I Decision, but that it does so for the purpose of the Unit 3 PIM.

37. Further, we require Public Service to explain the capital expenditure discrepancy Staff raises regarding the Phase II forecast for 2026,⁴¹ and invite the Company to respond to the comments filed and Staff's Response Testimony, including Staff's statements regarding the alternative cost recovery proposal.

38. The Company shall file responses with the O&M data, the capital expenditure discrepancy, and may include its response to Staff's Response Testimony, through pre-filed testimony no later than August 28, 2024.

39. Public Service shall confer with parties to this Proceeding and by Friday, September 6, 2024, provide a witness list that includes at least Company and Staff witnesses to address the issues raised in the pre-filed testimony and answer Commissioner questions during the hearing. Parties may file corrections to pre-filed testimony and exhibits, prehearing motions, and – if applicable – a cross-examination matrix⁴² by Friday, September 6, 2024.

⁴¹ Staff's Response Testimony, pp. 14-15 ("The value shown for the Phase II forecast is not consistent with the value shown for 2026 in Table MVP-D-1 the "Proposed PIM Calculator" which is based on the Phase II forecast. Staff believes this is simply an error, but for clarity of the record, Staff recommends that the Company correct this error.").

⁴² The parties are on notice that consistent with Commission practice, friendly cross-examination will not be permitted during the evidentiary hearing. Because the Unit 3 PIM is the subject of the remote evidentiary hearing and because the majority of parties here have not submitted comments opposing the Unit 3 PIM, we anticipate that the hearing will primarily consist of Commissioner questions.

40. The hearing in this matter is focused on whether to approve, modify, or deny the Unit 3 PIM. As noted by Staff, we understand the costs associated with expenditures prior to 2025, including the AUX boiler, to be outside of the Unit 3 PIM. Such costs are of concern and will be addressed more fully in a future rate case, as appropriate. Nevertheless, forecasts and expenditures prior to 2025 may be informative to better understand the structure, scope, and reasonableness of the Unit 3 PIM as proposed. As such, pre-2025 expenditures may be subject to questions at hearing to better inform the Commission's evaluation of the Unit 3 PIM. The Commission recognizes that a future rate case may be the appropriate place to direct consideration of both recovery of expenditures, including possibly for the prudence of the AUX boiler, and the alternative cost recovery approach raised within the context of comments.

41. Similarly, we anticipate directing inclusion of these considerations, as appropriate, in a future rate case. While the hearing will be focused on the Unit 3 PIM, whether and how the pre-2025 expenditures might be at issue in future proceedings could of course impact our determination regarding approval, modification, or denial of the Unit 3 PIM.

42. Attachment A to this Decision includes important technical information and requirements to facilitate holding the hearing remotely. Persons wishing to observe, but not participate in the hearing, are encouraged to observe the hearing via the Commission's webcast, rather than join the Zoom hearing. This will help minimize background noise and avoid issues that may arise.

43. Attachment B to this Decision includes information and requirements to facilitate electronic evidentiary presentations at the hearing. Many requirements in Attachment B apply to formatting, marking, and filing exhibits, and are critical to ensure a smooth evidentiary

presentation. Parties must ensure that exhibits are correctly formatted, marked, and filed, consistent with Attachments A and B.

44. To minimize the potential that the video-conference hearing may be disrupted by non-participants, the link and meeting ID or access code to attend the hearing will be provided to the parties' counsel⁴³ by email before the hearing. The parties will be prohibited from distributing this information to anyone not participating in the hearing. Counsel and the parties are responsible for ensuring that their witnesses receive the Zoom information needed to join the hearing.

E. Emissions Reduction Performance Incentive Mechanism

45. In its initial filings, Public Service states it has engaged with the Initial PIM Discussion Parties to begin developing an emissions PIM but "the Company and stakeholders are not yet ready to bring forward an emissions PIM for approval."⁴⁴ Subsequently, in its supplemental filings, Public Service reiterates the challenges with developing an emissions PIM, but reveals that it developed an emissions PIM concept. Public Service brought its emissions PIM concept to certain stakeholders for discussion, but other parties could not support it and the parties have not yet aligned on modifications to that proposal.⁴⁵ Public Service emphasizes the Company is not intentionally delaying the proposal, but is continuing to work with stakeholders and hopes to provide a proposal to the Commission in the coming months.⁴⁶

46. The Joint Comments state Public Service and the Joint Commenters have engaged in good faith conversations regarding the development of an emissions PIM over the course of at least ten group meetings. The Joint Commenters reiterate the challenges of developing an

⁴³ Approximately one week before the hearing, counsel will receive an email with information needed to join the hearing at the email addresses on file with the Commission for this Proceeding. Counsel must ensure that the Commission has their most current email address.

⁴⁴ PIM Testimony of Michael Pascucci, p. 29.

⁴⁵ Pascucci Supplemental PIM Testimony, p. 32.

⁴⁶ Pascucci Supplemental PIM Testimony, p. 33.

emissions reduction PIM and anticipate continuing good faith work with Public Service to develop one.⁴⁷

47. In Climax's comments, Climax notes that Climax and other parties were not invited to the initial stakeholder discussions. Climax concurs with the Joint Comments and acknowledges the complexity inherent in developing an emissions PIM. Climax asserts, however, that no focused effort involving all parties has occurred and that a directive to undertake such an effort and complete it by the end of 2024 would be appropriate.

48. While we recognize that no proposal has been provided here, we continue to support that a comprehensive emissions reduction PIM is worthwhile for consideration. The viability of an emissions reduction PIM will not be the subject of the Unit 3 PIM hearing. However, we direct Public Service to provide a comprehensive emissions reduction PIM proposal, which may be filed in the initial filings for the upcoming Pueblo JTS or through a separate application pleading. While Public Service has discretion in whether to file the emission reduction PIM proposal in the Pueblo JTS or separately, the pleading proposal must be made within 90 days of the mail date of this decision.⁴⁸

49. The Company is encouraged but not required to further pursue stakeholder input and consensus on the forthcoming emission reduction PIM filing. Initial pleadings from the Company should describe if potential stakeholders agree with the proposal as presented, and we will anticipate considering counterproposals through intervening parties as necessary and appropriate in that future proceeding.

⁴⁷ Joint Comments, pp. 9-10.

⁴⁸ The JTS has been delayed and is currently due to be filed October 15, 2024. While further extension of the JTS has been discouraged, should the JTS be delayed further, for clarity, this decision would require the filing of an emission reduction PIM to be made separately within the required 90 day timeframe for consideration.

II. ORDER

A. The Commission Orders That:

1. Consistent with the discussion above, Public Service Company of Colorado (“Public Service”) shall file responsive testimony and operations and maintenance data by Wednesday, **August 28, 2024**.

2. Public Service shall confer with parties and file a witness list by Friday, **September 6, 2024**.

3. Parties may file corrections to pre-filed testimony and exhibits, prehearing motions, and other appropriate pre-hearing filings as necessary by Friday, **September 6, 2024**.

4. A fully remote evidentiary hearing is scheduled as follows:

DATE: September 17 and 18, 2024

TIME: 9:00 a.m. to 12:00 p.m. on September 17, and 1:00 p.m. to 5:00 p.m. on September 18, 2024

PLACE: JOIN BY VIDEO-CONFERENCE USING ZOOM

5. The parties are responsible for sharing the link, meeting ID code, and passcode with witnesses and others participating in the hearing. Participants in the hearing may not distribute the link, meeting ID code, and passcode to anyone not participating in the hearing.

6. All parties must comply with the requirements in Attachments A and B to this Decision.

7. Non-participants in the evidentiary hearing may observe the hearing live through the Commission’s webcast for the Hearing Room assigned for each of the above hearing dates, which may be accessed at this link: <https://puc.colorado.gov/webcasts>.

8. The parties and witnesses are required to participate in the evidentiary hearing by video-conference using Zoom. The parties must ensure that they and their witnesses are ready and able to participate in the evidentiary hearing by video-conference, including presenting evidence electronically during the hearing using Zoom.

9. Public Service shall file a proposed emission reductions performance incentive mechanism as contemplated through the course of this Proceeding in its initial filings in the Pueblo Just Transition Solicitation (“JTS”) interim electric resource plan proceeding, currently due October 15, 2024, or through a separate application. Whether filed in the JTS or separately, the proposed emission reduction performance incentive mechanism proposal shall be filed no later than 90 days from the issuance of this decision.

10. This Decision is effective upon its Issued Date.

**B. ADOPTED IN COMMISSIONERS’ WEEKLY MEETING
August 7, 2024.**

(S E A L)



ATTEST: A TRUE COPY

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ERIC BLANK

MEGAN M. GILMAN

TOM PLANT

Commissioners

Rebecca E. White,
Director