

Decision No. C25-0181-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 GRANTING
UNOPPOSED MOTION FOR EXTENSION OF TIME,
VARIANCES FROM RULES 33613(I) AND 3613(J), AND
REQUEST FOR WAIVER OF RESPONSE TIME AND
REQUIRING ADDITIONAL REPORTING**

Issued Date: March 18, 2025

Adopted Date: March 12, 2025

I. BY THE COMMISSION

A. Statement

1. Through this Decision, we grant the Unopposed Motion for Variances from Rules 3613(i) and 3613(j), Variance from Paragraphs 96-97 of Decision No. C25-0024 with Respect to the Contract Execution Date for Electric Resource Plan and Clean Energy Plan Projects, and Request for Waiver of Response Time (“Unopposed Motion”) that Public Service Company of Colorado (“Public Service” or the “Company”) filed on March 3, 2025.

2. Notwithstanding the extension of the deadline to complete contracting, we clarify that certain reporting requirements continue. In addition, Public Service must now include, as part of its monthly negotiation reports, an explanation of the currently expected in-service date for each project and whether this in-service date differs from the in-service date initially disclosed in Phase II of this Proceeding.

B. Background and Unopposed Motion

3. On September 6, 2024, Public Service filed a Motion to Approve Clean Energy Plan (“CEP”) Delivery Plan and for Variances from Certain Commission Rules and Decisions (“CEP Delivery Motion”). As part of the CEP Delivery Motion, the Company requested a variance from 4 *Code of Colorado Regulations* (“CCR”) 723-3-3613(i) of the Commission’s Rules Regulating Electric Utilities to extend the contract execution date by six months to March 1, 2025, in order to allow sufficient time for the Commission to resolve the issues in the CEP Delivery Plan and complete contracting.¹ The Company also sought a variance from Rule 3613(j) to extend the deadline for the public release of bid information until April 1, 2025, one month after the contract execution deadline.² Public Service proposed a procedural schedule under which the Commission would issue an oral decision on the CEP Delivery Motion by November 6, 2024.

4. The Commission deliberated on the CEP Delivery Motion on December 16, 2024, and December 20, 2024. On January 14, 2025, we issued Decision No. C25-0024, granting, in part, and denying, in part the CEP Delivery Motion. In Decision No. C25-0024, the Commission granted Public Service’s requested variance of Rule 3613(i) and adopted March 1, 2025, as the deadline by which the Company was required to execute contracts for new energy and storage resources. Prior to this extension, the deadline to execute contracts was September 1, 2024.³ As part of the extended deadline, we required that any request to extend the March 1, 2025 deadline must be accompanied with a detailed description of Public Service’s efforts specific to each individual power purchase agreement (“PPA”) and build-transfer agreement.⁴

¹ Under Rule 3613(i), a utility must execute contracts for resources within 18 months after the utility’s receipt of bids to receive the presumption of prudence per Rule 3617(d).

² Under Rule 3613(j), a utility must file a proposal within 14 months after the receipt of bids that addresses the public release of all confidential and highly confidential information related to bids.

³ Decision No. C25-0024, ¶ 87.

⁴ Decision No. C25-0024, ¶ 96.

5. In Decision No. C25-0024, the Commission also granted Public Service’s requested variance from Rule 3613(j) regarding the public release of bid information. We agreed with the Company that the bids were in a “sensitive state” and that it was too soon to publicly release confidential information such as bid prices.⁵ The Commission adopted the Company’s proposed April 1, 2025 deadline. Prior to this extension, the deadline to file a proposal for the public release of confidential bid information was May 1, 2024.

6. In the Unopposed Motion, Public Service requests the Commission extend to April 15, 2025, the deadline under Rule 3613(i) to execute contracts for new energy and storage resources. The Company asserts it has been acting diligently to complete contracting with all selected independent power producers (“IPPs”), but “the federal policy landscape and economic environment has become more uncertain since the January 14, 2025 Decision, and potential tariffs and changes to permitting regimes have led to additional discussions on certain PPA terms that the Company could not have anticipated.”⁶ Public Service further adds the March 1, 2025 deadline the Company initially requested in its CEP Delivery Motion was based on the assumption that the Commission would issue an oral decision in early November 2024, which did not occur.

7. Pursuant to the directive in Decision No. C25-0024 for a detailed description of Public Service’s negotiation efforts specific to each PPA and build-transfer agreement, Public Service includes with its Unopposed Motion a PPA Contract Status Update. While this PPA Contract Status Update is marked as highly confidential, the Company discloses in its Unopposed Motion that, so far, only one contract has been signed—a battery storage build-transfer agreement (Bid 1085). Public Service asserts that it has reached final terms on two PPAs (Bids 0589 and

⁵ Decision No. C25-0024, ¶ 97.

⁶ Unopposed Motion, p. 4.

0782) and several others are nearing completion.⁷ To meet its requested April 15 deadline to have all of the contracts executed, Public Service states it intends to offer best and final terms to all IPPs no later than April 1, 2025.

8. In addition, in the Unopposed Motion Public Service requests an extension of the April 1 deadline to submit a proposal for the public release confidential bid information pursuant to Rule 3613(j). The Company states it is unable to set a specific date at this time but proposes to file a motion within two weeks after the completion of contracting for all PPAs and build-transfer agreements. This motion would request a bifurcated approach to the public filing of confidential bid information. The Company anticipates it will seek an earlier release of bid information that derives from the March 2023 bid submission. For information relating to updated pricing as part of the CEP Delivery Plan, however, the Company will propose one or more later deadlines. Public Service argues this bifurcated approach will prioritize transparency while protecting the rights of bidders that have submitted updated pricing.

9. Public Service further notes the Just Transition Solicitation (“JTS”) process is underway in Proceeding No. 24A-0442E and that many bidders from the 2021 ERP/CEP may elect to bid into the JTS. The Company argues the ERP designation process did not contemplate solicitations running as closely together as is currently happening and that publication of current pricing and other project information could cause substantial financial and competitive harm.⁸

10. Finally, Public Service seeks a waiver of response time to the Unopposed Motion pursuant to 4 CCR 723-1-1308(c) of the Commission’s Rules of Practice and Procedure.

⁷ Unopposed Motion, p. 4.

⁸ Unopposed Motion, pp. 5-6.

Public Service states that conferred with all parties to this Proceeding and that its requested relief is unopposed.

C. Findings and Conclusions

11. The Commission is disappointed that more than a year after our Phase II Decision in this Proceeding,⁹ Public Service has not yet executed a single PPA and has only finalized one build-transfer agreement. It is our hope and expectation that the contracting for these resources continues to move forward and is completed in the near future. We acknowledge, however, the Company's representations that the federal policy landscape and economic environment have become increasingly uncertain. For the reasons set forth in Public Service's Unopposed Motion, we find good cause to grant the requested variances from Rules 3613(i) and 3613(j) and the associated directives in Decision No. C25-0024.

12. Regarding Rule 3613(i), Public Service shall have until April 15, 2025, within which to execute contracts for new resources. While this Decision modifies the March 1, 2025 deadline set in Decision No. C25-0024, the requirement for Public Service to file a negotiation report on the fifth of every month until all PPAs and build-transfer agreements are executed remains.¹⁰ In addition to the reporting requirements established in Decision No. C25-0024, Public Service shall include in its monthly negotiation reports an explanation of the currently expected in-service date of each project and whether this current estimate differs from the in-service date initially disclosed in Phase II of this Proceeding. Furthermore, any request to extend the April 15, 2025 deadline must again be accompanied with a detailed description of Public Service's efforts specific to each individual PPA and build-transfer agreement.

⁹ Decision No. C24-0052, issued January 23, 2024.

¹⁰ Decision No. C25-0024, ¶ 95.

Public Service must again confer with the individual bidders on the information the Company intends to provide regarding efforts to finalize PPAs, and conferral confirmation must be included.¹¹

13. As for the deadline to file a proposal for the public release of confidential bid information per Rule 3613(j), the Company shall file a proposal within two weeks after the completion of contracting for all PPAs and build-transfer agreements, consistent with its request in the Unopposed Motion. We note, however, that we establish this new deadline in the context of the present Unopposed Motion. If Public Service seeks another extension of the April 15 deadline to execute PPAs and build-transfer agreements, the Commission may consider whether the deadline for the Rule 3613(j) filing is still appropriate.¹²

14. Lastly, we grant Public Service's request for waiver of remaining response time per Rule 1308(c). The Company has represented that its requested relief is unopposed.

¹¹ See Decision No. C25-0024, ¶ 96.

¹² We further note that by granting Public Service's requests in its Unopposed Motion, we take no position on the Company's indication that it will seek a bifurcated approach to the public filing of confidential bid information.

II. ORDER

A. It Is Ordered That:

1. Consistent with the above discussion, the Unopposed Motion for Variances from Rules 3613(i) and 3613(j), Variance from Paragraphs 96-97 of Decision No. C25-0024 with Respect to the Contract Execution Date for Electric Resource Plan and Clean Energy Plan Projects, and Request for Waiver of Response Time (“Unopposed Motion”) that Public Service Company of Colorado (“Public Service”) filed on March 3, 2025, is granted and the remaining response time to the Unopposed Motion is waived.

2. Consistent with the discussion above, Public Service shall have until April 15, 2025, within which to execute contracts for new resources pursuant to 4 *Code of Colorado Regulations* (“CCR”) 723-3-3613(i) of the Commission’s Rules Regulating Electric Utilities. Public Service must continue to file its monthly negotiation reports and now must include in the reports an explanation of the currently expected in-service date of each project and whether this current estimate differs from the in-service date initially disclosed in Phase II of this Proceeding.

3. Consistent with the discussion above, Public Service shall file a proposal for purposes of Rule 3613(j) within two weeks after the completion of contracting for all power purchase agreements and build-transfer agreements.

4. This Decision is effective immediately upon its Issued Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
March 12, 2025.**

(S E A L)



ATTEST: A TRUE COPY

Rebecca E. White,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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MEGAN M. GILMAN

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Commissioners