

Decision No. C25-0213-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 25A-0075E

IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO FOR APPROVAL TO RECOVER COSTS ASSOCIATED WITH JOINING THE SOUTHWEST POWER POOL MARKETS+ MARKET THROUGH THE ELECTRIC COMMODITY ADJUSTMENT.

**INTERIM COMMISSION DECISION DENYING
JOINT MOTION TO WAIVE DECISION DEADLINE IN
RULE 3753, SETTING APPLICATION FOR HEARING
BEFORE THE COMMISSION *EN BANC*, AND REQUIRING
CONFERRAL AND FILING OF PROPOSED
PROCEDURAL SCHEDULE**

Issued Date: March 20, 2025

Adopted Date: March 19, 2025

I. BY THE COMMISSION

A. Statement

1. On February 14, 2025, Public Service Company of Colorado (“Public Service” or the “Company”) filed an Application (“Application”) requesting a determination that it is in the public interest for Public Service to participate in Southwest Power Pool’s (“SPP”) regional, day-ahead and real-time energy and flexibility reserve product market in the Western Interconnection, called Markets+ (“Markets+” or “SPP Markets+”), and requesting recovery of costs associated with Markets+ participation through the Electric Commodity Adjustment (“ECA”). Public Service filed the Application pursuant to the Commission’s rules addressing Colorado electric utility participation in regional wholesale electricity markets, codified at 4 *Code of Colorado Regulations* (“CCR”) 723-3-3750, *et seq.* (“Regional Market Rules”).

2. Through this Decision, the Commission denies the Joint Motion to Waive Rule 3753 (“Joint Waiver Motion”) filed on March 11, 2025, by Trial Staff of the Commission (“Staff”), the Colorado Office of the Utility Consumer Advocate (“UCA”), the Colorado Energy Office (“CEO), Climax Molybdenum Co., (“Climax”), Advanced Energy United (“AEU”), Colorado Energy Consumers Group (“CEC”), and Western Resource Advocates (“WRA”) (collectively, the “Joint Movants”). The Joint Movants specifically ask the Commission to waive the deadline for a Commission decision on the Application within 150 days of the filing.

3. This Decision also sets the Application for hearing before the Commission *en banc* and orders Public Service to confer with the parties to develop a proposed procedural schedule consistent with the 150-day decision deadline in Rule 3753(b)(I), including discovery procedures, to be filed no later than April 1, 2025.

B. Joint Motion for Waiver of Rule 3753 and Responses

4. In the Joint Waiver Motion, the Joint Movants request a waiver of Rule 3753(b)(I) that states the Commission will set a procedural schedule that results in a written Commission decision within 150 days of the application filing in a proceeding considering participation in a day-ahead market. The Joint Movants contend that the Application presents many complexities that warrant additional time for consideration, including issues around an undefined market footprint and uncertainties with how the new federal administration will impact oversight of market activities by the Federal Energy Regulatory Commission. The Joint Movants argue that there is time for standard application timelines,¹ stating that Public Service has filed this Application roughly a year earlier than required under the Commission’s Regional Market

¹ Pursuant to § 40-6-109.5(1), C.R.S., the Commission must issue a decision on an application no later than 120 days after the application is deemed complete. If the Commission finds that additional time is required, it may extend the deadline by an additional period not to exceed 130 days.

Rules and that the market will not begin operations until the second quarter of 2027, while recognizing that the Company and SPP might need to begin work sooner than 2026 in light of the steps needed to set up the necessary market infrastructure. Additionally, the Joint Movants state that the Company puts forth insufficiently concrete reasons to support the need to receive a decision within 150 days.

5. On March 17, 2025, Public Service and Tri-State Generation & Transmission Association, Inc. (“Tri-State”) each filed responses to the Motion. Public Service argues that the Joint Waiver Motion fails to demonstrate good cause, in that: (1) it attempts to relitigate a lengthy and unduly burdensome process framework that Hearing Commissioner Eric Blank rejected in the Proceeding No. 22R-0249E rulemaking; (2) the issues presented by this Application are not overly complex, as such issues around day-ahead markets were thoroughly explored in Proceeding No. 19M-0495E² and in the Proceeding No. 22R-0249E rulemaking; (3) the Joint Waiver Motion contains many factual inaccuracies, guesses, or misstatements; (4) Public Service has until August 12, 2025, to sign the Markets+ Phase 2 Funding Agreement to stay in the 2027 Markets+ “go-live window,” and the requested delay would holdup the benefits to its customers from participating in Markets+, increase costs, and remove Public Service from Markets+ Phase 2 governance; and (5) the delay requested could be far longer under timeframes provided in § 40-6-109.5, C.R.S.

6. Tri-State’s response largely repeats Public Service’s concerns. Tri-State states that in issuing the Regional Market Rules that govern this Proceeding, the Commission specifically considered the timing issues raised by the Joint Movants, finding that a 150-day decision period

² The Commission commenced this proceeding pursuant to the Colorado Transmission Coordination Act of 2019, codified at §§ 40-2.3-101 and 102, C.R.S.

strikes the appropriate balance between the complexity of issues and need for timely resolution. Tri-State also contends that the Joint Movants' request, if granted, would undermine Public Service's ability to meet the Phase 2 funding deadline for Markets+, significantly limiting Colorado entities' ability to meaningfully impact and engage in the SPP Markets+ governance process, in addition to potentially increasing costs for Tri-State's customers.

7. More on point, Public Service and Tri-State explain that Public Service is requesting approval of its application in time for the execution of the Markets+ Phase 2 Funding Agreement on or before August 12, 2025, and that this Phase 2 Funding Agreement was renegotiated explicitly to accommodate the 150-day schedule. They state that a delay in Public Service's ability to execute the Phase 2 Funding Agreement is very likely to delay its ability to enter Markets+ on the timeline proposed in the Application, and that benefits of market participation would be delayed. They claim that a delay may also redistribute costs for Phase 2 development among other participants and could disrupt the overall funding structure of Markets+. Moreover, they state that if Public Service is delayed in meeting the Phase 2 funding deadline, it will lose voting representation on Markets+ committees and working groups.

8. We agree with Public Service and Tri-State that the Joint Movants have failed to demonstrate good cause for the requested waiver of the 150-day decision deadline. Through a fully considered rulemaking proceeding, the Commission established a limited set of criteria for the Commission to consider in an application proceeding such as this one, on an expedited schedule. The issues raised by the Joint Movants are largely unspecified and do not justify a departure from the careful balancing in the rules between a utility's interest in a timely decision with other stakeholders' and the Commission's interests in considering the public interest implications of market participation. We believe that the schedule contemplated by

Rule 3753(b) will allow thorough consideration of the Application, and at the same time will provide Public Service the certainty it needs to work within SPP's timelines.

C. Setting the Application for Hearing

9. Several parties in this Proceeding request that the Commission set the Application for hearing, including Staff, UCA, and CEC. We find good cause to set the Application for hearing, and we will hear this matter *en banc*.

D. Schedule Conferral

10. We direct the Company to confer with the parties in this Proceeding regarding a proposed procedural schedule that includes an evidentiary hearing. Consistent with the 150-day decision deadline in Rule 3753(b)(I), the Commission's schedule favors a hearing on May 27, May 28 (half-day), and/or May 29, 2025. The proposed procedural schedule should also include proposed discovery procedures and should be filed by Public Service no later than April 1, 2025.

11. Additionally, Rule 3753(b) contemplates the filing of direct testimony by the applicant and then written initial and responsive comments, unless the Commission orders otherwise. For this Proceeding, the Commission prefers that the Company and parties file answer and rebuttal testimony instead of comments. As is always the case, comments may be filed and will be given appropriate evidentiary weight in the Commission's consideration of this matter.

II. ORDER

A. It Is Ordered That:

1. The Joint Motion to Waive Rule 3753 filed on March 11, 2025, by Trial Staff of the Commission, the Colorado Office of the Utility Consumer Advocate, the Colorado Energy

Office, Climax Molybdenum Co., Advanced Energy United, Colorado Energy Consumers Group, and Western Resource Advocates is denied.

2. This Application is set for hearing before the Commission *en banc*.

3. Consistent with the discussion above, Public Service Company of Colorado (“Public Service”) shall confer with the parties to develop a proposed procedural schedule, including a date for an *en banc* hearing. Public Service shall file the proposed procedural schedule, including proposed discovery parameters, no later than April 1, 2025.

4. This Decision is effective upon its Issued Date.

**B. ADOPTED IN COMMISSIONERS’ WEEKLY MEETING
March 19, 2025.**

(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