

**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  
ADOPTING MODIFIED PROCEDURAL SCHEDULE,  
GRANTING MOTION FOR PRO HAC VICE ADMISSION,  
AND GRANTING MOTION FOR EXTRAORDINARY  
PROTECTION**

Issued Date: April 24, 2025  
Adopted Date: April 2, 2025 & April 16, 2025

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**I. BY THE COMMISSION**

**A. Statement**

1. Through this Decision, the Commission adopts the procedural schedule contained within the Notice of Filing Consensus Procedural Schedule and Discovery Procedures

(“Consensus Procedural Schedule”), filed by Public Service Company of Colorado (“Public Service” or the “Company”) on March 28, 2025, as modified by the discussion below.

2. This Decision also grants the Motion Requesting Pro Hac Vice Admission for Catherine M. Sabers (“Motion for *Pro Hac Vice* Admission”), filed by Black Hills Colorado Electric, LLC (“Black Hills”) on March 27, 2025, and grants the Second Motion for Extraordinary Protection of Highly Confidential Information (“Motion for Extraordinary Protection”) filed by Public Service on April 14, 2025.

### **B. Background**

3. On February 14, 2025, Public Service filed an Application (“Application”) requesting a determination that it is in the public interest for Public Service to participate in Southwest Power Pool’s regional, day-ahead and real-time energy and flexibility reserve product market in the Western Interconnection, called Markets+ (“Markets+”), and requesting recovery of costs associated with Markets+ participation through the Electric Commodity Adjustment. 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.*

4. Through Decision No. C25-0213-I, issued March 20, 2025, the Commission set the Application for an *en banc* hearing and directed 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.

### **C. Procedural Schedule**

5. Public Service filed its Consensus Procedural Schedule on March 28, 2025. Public Service states it has conferred with the parties in this Proceeding regarding proposed filing

deadlines, hearing dates, and certain discovery provisions. Consequently, the Company proposes the following procedural schedule:

Event	Date
Answer Testimony	April 29, 2025
Rebuttal Testimony/Cross-Answer Testimony	May 16, 2025
Settlement Agreement and Prehearing Motions	May 19, 2025
Corrections/Cross-Matrix Witness/Exhibit List, and Settlement Testimony	May 23, 2025
Public Comment Hearing	May 22, 2025, from 4 p.m. to 6 p.m.
Evidentiary Hearing (The Parties believe only 2 hearing days will be needed)	May 27, 28 (half-day), and 29, 2025
Statements of Position	June 12, 2025
150-day Decision Deadline per Rule 3753(b)(I)	July 14, 2025

6. The Company states that Rule 1405, 4 CCR 723-1, applies to discovery in this Proceeding, except that responses to discovery on Direct and Answer Testimony will be due seven business days after service of discovery requests and responses to discovery on Rebuttal and Cross-Answer Testimony will be due five business days after service of discovery requests.

7. Additionally, Public Service states it inquired via email to counsel of the parties regarding the manner of conducting the evidentiary hearing: seven parties prefer a remote hearing, one party prefers an in-person hearing (but stated that remote was acceptable), and three state no preference. As such, the Company states it will defer to the Commission’s judgment for the manner of conducting the evidentiary hearing.

8. We adopt the proposed procedural schedule with a minor modification. The proposed schedule includes that the Corrections/Cross-Matrix Witness and Exhibit List, and Settlement Testimony would be due on Friday May 23, 2025, with the evidentiary hearing beginning on Tuesday, May 27, 2025. Because Monday, May 26, 2025, is Memorial Day and a state holiday, this timing will not allow the exhibit spreadsheet to be compiled and distributed prior

to the start of the evidentiary hearing. Therefore, the due date of the Corrections/Cross-Matrix Witness/Exhibit List, and Settlement Testimony shall be **Wednesday, May 21, 2025**. This will allow the Commission sufficient time to prepare and distribute the exhibit spreadsheet prior to the start of hearing.<sup>1</sup>

9. Accordingly, the Commission hereby adopts the modified procedural schedule as follows:

Event	Date
Answer Testimony	April 29, 2025
Rebuttal Testimony/Cross-Answer Testimony	May 16, 2025
Settlement Agreement and Prehearing Motions	May 19, 2025
Corrections/Cross-Matrix Witness/Exhibit List, and Settlement Testimony	May 21, 2025
Public Comment Hearing	May 22, 2025, from 4 p.m. to 6 p.m.
Evidentiary Hearing (The Parties believe only 2 hearing days will be needed)	May 27, 28 (half-day), and 29, 2025
Statements of Position	June 12, 2025
150-day Decision Deadline per Rule 3753(b)(I)	July 14, 2025

10. The Commission also adopts the proposed discovery procedures.

11. A remote evidentiary hearing scheduled for May 27-29, 2025, will be conducted using the Zoom platform. To minimize the potential that the remote hearing may be disrupted by non-participants, Commission staff will distribute the link and meeting ID, or access code, to attend the hearing to the parties by email approximately one week before the hearing, and the parties and witnesses are prohibited from distributing that information to anyone not participating in the hearing.

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<sup>1</sup> At the April 2, 2024 CWM, the Commission voted to adopt the proposed procedural schedule as filed. After further deliberation at the April 16, 2024 CWM, the Commission determined that slight modification to the proposed schedule is necessary, and adopted the procedural schedule set forth in this Decision.

12. Attachment A to this Decision provides the information addressing how to use the Zoom platform for participating in the remote evidentiary hearing scheduled for April 29-30, 2025. Attachment B provides detailed instructions governing the preparation and presentation of exhibits at hearing. The parties shall review and follow all requirements in this Decision and Attachments A and B, which are incorporated into and made part of this Decision.

13. Hearing exhibits shall be marked numerically and sequentially for identification by the filing parties within their respective blocks of numbers. In order to efficiently organize the numbering and preparation of exhibits for the hearing, all parties shall use a unified numbering system for all hearing exhibits. Parties should not duplicate hearing exhibits or attachments previously filed by another party.

14. The party initiating the proceeding is assigned hearing exhibit numbers 100 to 299.

15. Each intervening person or entity is assigned a block of 100 hearing exhibit numbers (*e.g.*, 300-399, 400-499, etc.) in the chronological order that notices of intervention by right and petitions for permissive intervention are filed, as reflected in the Commission's E-Filings System. As a result, the first person or entity noticing an intervention by right or requesting permissive intervention is assigned hearing exhibit numbers from 300 to 399, the second person or entity is assigned hearing exhibit numbers from 400 to 499, etc. Parties shall rely upon the Commission's E-Filings system to determine sequencing of requests for intervention (*i.e.*, without regard to whether or when the interventions were granted). To determine the sequencing and avoid duplicative use of blocks, parties are encouraged to confer as needed.

**D. Motion Requesting *Pro Hac Vice* Admission**

16. On March 27, the Commission received a Motion for *Pro Hac Vice* Admission for Catherine M. Sabers, Associate General Counsel of Black Hills Corporation, to practice before the

Commission in this Proceeding for Black Hills. Catherine Sabers states she is an attorney in good standing in South Dakota and lists Greg E. Sopkin of Black Hills, an attorney in good standing in Colorado, as her sponsoring attorney. Catherine Sabers also states she has previously been admitted to appear *pro hac vice* before the PUC on August 13, 2024, in Proceeding No. 24AL-0275E.

17. An attorney who is not licensed to practice law in Colorado must be granted permission to appear *pro hac vice* in a Commission proceeding. Rule 1201(a), 4 CCR 723-1, governs the admission of out-of-state attorneys. Rule 1201(a) requires compliance with Colorado Rule of Civil Procedure (“CRCP”) 205.4, which itself expressly incorporates CRCP 205.3. As pertinent here, CRCP 205.3(2)(a) details what an out-of-state attorney must do to be permitted to appear *pro hac vice* and includes the following requirements: (a) file a verified motion with the administrative agency requesting permission to appear; (b) designate an associated attorney who is admitted and licensed to practice law in Colorado; (c) file a copy of the verified motion with the Clerk of the Supreme Court Office of Attorney Regulation at the same time the verified motion is filed with the administrative agency; (d) pay the required fee to the Clerk of Supreme Court collected by the Office of Attorney Regulation; and (e) obtain permission from the administrative agency for such appearance.

18. Catherine Sabers has satisfied the requirements of CRCP 205.4. Therefore, we grant Mr. Woolsey’s request to appear *pro hac vice*.

**E. Motion for Extraordinary Protection**

19. In its Motion for Extraordinary Protection, filed on April 14, 2025, Public Services requests extraordinary protection for five spreadsheets containing results from the Western Day

Ahead Market Production Cost Impact Study, prepared in June 2023 by Energy and Environmental Economics (“E3 WMEG Study”).

20. Public Service states that these spreadsheets contain hourly market data that, if released, could seriously harm the Company’s traders who buy and sell energy in short term markets to reduce the Company’s energy costs. Such inappropriately disclosed information, the Company continues, can be used by other trading organizations, or by those people who would sell such propriety and sensitive information to other trading organizations, to raise the costs of power sold to Public Service, to the detriment of their customers.

21. Public Service states that these very same documents were granted highly confidential protection by Hearing Commissioner Blank through Decision No. R24-0265-I in Proceeding No. 22R-0249E, which was the rulemaking proceeding to develop the rules regulating utility participation in organized wholesale markets.<sup>2</sup>

22. In this Proceeding, the Company requests that access to this information be limited to the Commissioners, Advisory Staff and Attorneys, Commission Administrative Law Judges, members of Staff, UCA, and CEO working on the proceeding, as well as their representative Assistant Attorneys General, and to a reasonable number of attorneys and subject matter experts who sign the appropriate non-disclosure agreements. Public Service contends these extraordinary protections strike the appropriate balance between the need for disclosure and the need to protect the interest of the Company.

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<sup>2</sup> The Company also notes that a detailed summary of the results from the E3 WMEG Study was provided publicly in that Proceeding No. 22R-0249E and therefore any intervenor in this Proceeding may review that study without needing to access the confidential information.

23. Public Service represents its Motion is unopposed and asserts that time is of the essence in receiving a decision since the information in question has been requested in discovery. Given this, the Company requests that remaining response time to the motion be waived.

24. When presented with a motion for extraordinary protection of claimed highly confidential information, the Commission determines whether the information is, in fact, highly confidential, the level of extraordinary protection that may be warranted, and to whom access should be granted.

25. The operative language in Rule 1101(b)(IV), 4 CCR 723-1, which concerns motions requesting highly confidential protection, requires that the motion:

shall include a showing that the information for which highly confidential protection is sought is highly confidential; that the protection afforded by the Commission's rules for furnishing confidential information provides insufficient protection for the highly confidential information; and that, if adopted, the highly confidential protections proposed by the movant will afford sufficient protection for the highly confidential information ....

26. We find that Public Service's unopposed Motion for Extraordinary Protection states good cause to grant the relief sought under Rule 1101. We further find the requested protections are appropriate, reasonable, and consistent with the Commission's Rules and past practice.

27. Based on the foregoing, we grant Public Service's Motion for Extraordinary Protection as requested and waive any remaining response time. The protections requested conform with licensure requirements, and otherwise limit information to attorneys or subject matter experts that sign non-disclosure agreements to reasonably access information for purposes of this Proceeding.

## II. ORDER

### A. The Commission Orders That:

1. The procedural schedule and discovery procedures contained within the Notice of Filing Consensus Procedural Schedule and Discovery Procedures, filed by Public Service Company of Colorado (“Public Service”) on March 28, 2025, are adopted, as modified by this discussion and consistent with the discussion above.

2. A remote evidentiary hearing is scheduled in this Proceeding as follows:

DATE: May 27, 28 and 29, 2025

TIME: 9:00 a.m. to 5:00 p.m. on May 27, 2025; 1:00 p.m. to 5:00 p.m. on May 28, 2025; and 9:00 a.m. to 5:00 p.m. on May 29, 2025.

PLACE: Join by video conference using Zoom

3. All participants must comply with the requirements in Attachments A and B to this Decision.

4. 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.

5. The parties are responsible for sharing the Zoom link, meeting ID code, and passcode to 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. The Verified Motion Requesting *Pro Hac Vice* Admission of Catherine M. Sabers, filed on March 27, 2025, to appear *pro hac vice* on behalf of Black Hills Electric, LLC is granted.

7. The Second Motion for Extraordinary Protection of Highly Confidential Information (“Motion for Extraordinary Protection”) filed by Public Service on April 14, 2025, is granted, consistent with the discussion above.

8. Remaining response time to the Motion for Extraordinary Protection is waived.

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

**B. ADOPTED IN COMMISSIONERS’ WEEKLY MEETING  
April 2, 2025 & April 16, 2025.**

(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

ERIC BLANK

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MEGAN M. GILMAN

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TOM PLANT

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Commissioners