

Decision No. C25-0366-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 24A-0442E

IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO FOR APPROVAL OF ITS 2024 JUST TRANSITION SOLICITATION.

**INTERIM COMMISSION DECISION
DENYING LATE INTERVENTION**

Issued Date: May 13, 2025

Adopted Date: May 7, 2025

I. BY THE COMMISSION

A. Statement, Findings, and Conclusions

1. On October 15, 2024, Public Service Company of Colorado (“Public Service” or the “Company”) filed a Verified Application for Approval of its 2024 Just Transition Solicitation (“JTS”) Application. Through Decision No. C24-0872-I, issued November 22, 2024, the Commission set the matter for hearing before the Commission *en banc* and established parties to the Proceeding, acknowledging and granting a significant number of timely-filed interventions.

2. Through Decision No. C25-0064-I, issued January 29, 2025, the Commission adopted a procedural schedule and scheduled a remote evidentiary hearing.

3. In accordance with the adopted procedural schedule, the parties to this Proceeding filed Answer Testimony on April 18, 2025. Additional testimony will be filed in May of 2025, with the evidentiary hearing commencing in June of 2025.

4. On April 23, 2025, Mr. David Thielen filed an Intervener Application (“Intervention”). A few hours later, on the same day, Mr. Thielen filed an updated Intervention.

5. On April 24, 2025, Mr. Thielen filed a revised version of his Intervention that was to replace the two previous versions and serve as his final Intervention.¹

6. In his Intervention, Mr. Thielen states that he is an individual stakeholder with a substantial interest in Colorado's clean energy transition and is seeking intervention in this Proceeding to advocate for the inclusion of proven nuclear power plant designs in Phase II's competitive solicitation process. Specifically, Mr. Thielen asserts the Nuclear Regulatory Commission ("NRC") has approved and certified nuclear reactor designs (*i.e.*, APR-1400 and AP-1000 designs) and that the Commission should consider these options in the Request for Proposal ("RFP") and bid evaluation processes in Phase II as they offer significant advantages for Colorado's energy future. In his intervention, Mr. Thielen discusses various aspects of these NRC-certified nuclear designs, including (1) reliability and baseload power, (2) emissions reductions, (3) just transition benefits, and (4) economic and safety advantages.

7. Mr. Thielen requests that the Commission take the following actions in this Proceeding:

- Direct Public Service to include the APR-1400 and AP-1000 in the Phase II RFP process, ensuring bidders can propose nuclear projects using these designs;
- Require Public Service to model nuclear scenarios in Phase II, incorporating the APR-1400 and AP-1000's contributions to Effective Load Carrying Capability, Planning Reserve Margin, and just transition benefits (*e.g.*, job creation in affected communities);
- Evaluate nuclear power's role in the Carbon Free Future Development Policy, recognizing the APR-1400 and AP-1000 designs as proven, deployable technologies rather than speculative innovations; and
- Consider nuclear power's potential to utilize existing transmission infrastructure (*e.g.*, at retiring coal plants), as identified in Public Service's JTS Transmission Study, to minimize costs.

¹ It is the latest and final version that is addressed through this Decision.

8. Mr. Thielen does not have legal representation and is therefore seeking *pro se* intervenor status in this Proceeding.

9. Under Rule 1401(a), 4 *Code of Colorado Regulations* (“CCR”) 723-1, the Commission may—for good cause shown—allow late intervention, subject to reasonable procedural requirements and provided the movant meets the requirements of Rule 1401(c) of the Commission’s Rules of Practice and Procedure.

10. Rule 1401(c) requires persons seeking permissive intervention to show the following, in pertinent part:

A motion to permissively intervene shall state the specific grounds relied upon for intervention; the claim or defense within the scope of the Commission’s jurisdiction on which the requested intervention is based, including the specific interest that justifies intervention; and why the filer is positioned to represent that interest in a manner that will advance the just resolution of the proceeding. The motion must demonstrate that the subject proceeding may substantially affect the pecuniary or tangible interests of the movant (or those it may represent) and that the movant’s interests would not otherwise be adequately represented.

11. Further, in addition to requiring a pecuniary and tangible interest not otherwise represented, Rule 1401(c) requires that a movant who is a “residential consumer, agricultural consumer, or small business consumer” discuss in the motion whether the distinct interest of the consumer is either not adequately represented by the Colorado Office of the Utility Consumer Advocate (“UCA”) or inconsistent with other classes of consumers represented by UCA. As set forth in §§ 40-6.5-104(1) and (2), C.R.S., UCA has a statutory mandate to represent the interest of residential ratepayers.

12. Pursuant to Rule 1500, the party seeking leave to intervene by permission bears the burden of proof with respect to the relief sought.

13. As Colorado courts have long recognized, the Commission maintains discretion in granting or denying petitions for permissive intervention.²

14. Mr. Thielen's Intervention fails to discuss or otherwise demonstrate good cause for late intervention under Rule 1401(a). The filings further do not address or establish grounds for permissive intervention under Rule 1401(c). The filing does not explain his ability, as a *pro se* intervenor, to represent any pecuniary and tangible interests not otherwise represented by the numerous parties to this Proceeding, including with regard to advancing nuclear project interests.³ In addition, as an individual residential rate payer, his filing does not address why UCA cannot adequately represent his interests in this Proceeding shared by other ratepayers.⁴ Notably, Mr. Thielen's Intervention entirely neglects to address any of these substantive requirements set out in Rule 1401.

15. Moreover, we are disinclined to permit a *pro se* intervention at this late stage of the Proceeding, particularly given that timely interventions were addressed over six months ago, there

² *E.g.*, *Public Service Co. of Colo. v. Trigen-Nations Energy Co.*, 982 P.2d 316, 327 (Colo. 1999) (“[The] PUC maintains discretion to grant or deny petitions for permissive interventions.”); *De Lue v. Pub. Utils. Comm'n*, 454 P.2d 939, 942 (Colo. 1969) (upholding the Commission's finding that a party did not show a substantial interest in the subject matter and its intervention would unduly broaden the issue before the Commission.).

³ The Colorado Supreme Court has articulated two exceptions to the general rule that only licensed attorneys can practice law before an administrative body: (1) when a natural person represents his or her own interests, and (2) “[a]s to matters in which no legal principle is involved and the subject matter of the hearing has a value or represents an amount insufficient to warrant the employment of an attorney.” *Denver Bar Ass'n v. Pub. Utils. Comm'n*, 391 P.2d 467, 471 (Colo. 1964). The Commission has prevented even its own staff from using a *pro se* non-attorney representative for failing to fall within either of these exceptions. *In Re Union Pac. R.R. Co.*, 03A-254R, 2003 WL 22399577 (Colo. P.U.C. Oct. 16, 2003). The Commission has also stated that the burden of proof lies with the *pro se* party, if they seek non-attorney representation before the Commission, to prove that they fit within a qualifying exception. *In the Matter of the Application of Holly M. Smith, Doing Bus. As Angel Delivery's, for A Certificate of Pub. Convenience & Necessity to Operate As A Common Carrier by Motor Vehicle for Hire.*, 17A-0383CP, 2017 WL 4055063, at *6 (Colo. P.U.C. Sept. 6, 2017), modified, 17A-0383CP, 2017 WL 5159612 (Colo. P.U.C. Nov. 2, 2017).

⁴ *See also Glustrom v. Pub. Utils. Comm'n*, 11CV8131 (Order Dismissing Appeal, July 11, 2012) (Denver District Court decision upholding the Commission's decision to deny the petition for permissive intervention by *pro se* individual because the subject docket would not substantially affect the petitioner's pecuniary or tangible interests not shared by other residential ratepayers.).

are already 24 intervening parties representing a broad range of interests from across the state,⁵ and Answer Testimony has already been filed. Late intervention, particularly one that is not supported by the standards of Rule 1401, is likely to cause procedural delay, including at the upcoming evidentiary hearing. We therefore deny Mr. Thielen's Intervention.

16. However, while we decline to grant Mr. Thielen's late-filed intervention, we strongly encourage him to participate and engage in the public comment process. In his Intervention, Mr. Thielen indicated he would participate in this Proceeding by, among other things, providing evidence-based comments, participating in public comment hearings, and submitting written comments. This participation does not require intervention. Mr. Thielen can advocate for his positions, including with regard to the inclusion of nuclear energy, through these forums without being a party to this Proceeding.⁶

⁵ See Decision No. C24-0872-I, issued November 22, 2024, at ¶¶ 20-41. The Commission granted the timely and unopposed requests for permissive intervention filed by the following parties: Holy Cross Electric Association, Inc.; Colorado Energy Consumers; Climax Molybdenum Company; Walmart Inc.; Natural Resources Defense Council and Sierra Club; Western Resource Advocates and Southwest Energy Efficiency Project; Healthy Air and Water Colorado; GreenLatinos, GRID Alternatives, NAACP State Conference CO-MT-WY, Pueblo Branch, Roots to Resilience and Vote Solar; Pivot Energy Inc.; the Colorado Renewable Energy Society and the Physicians for Social Responsibility Colorado; the Board of County Commissioners of Pueblo County, City of Pueblo, and Pueblo Economic Development Corporation; Moffat County, Colorado and the City of Craig, Colorado; the Town of Hayden, Colorado and Routt County, Colorado; Colorado Communities for Climate Action; Interwest Energy Alliance; the Colorado Independent Energy Association; Onward Energy Management LLC; the Coalition for Community Solar Access; the Eastern Metro Area Business Coalition; the Colorado Solar and Storage Association, the Solar Energy Industries Association, and Advanced Energy United; and the Office of Justic Transition. The Commission denied the Motion to Intervene filed *pro se* by Leslie Glustrom and construed her filings as public comment. The Commission acknowledged the notices of intervention of right filed by the UCA, the Colorado Energy Office, and Trial Staff of the Commission.

⁶ Public comments can be accepted in writing, or through public comment hearings scheduled through prior decision. To date, significant public comment has been filed or provided orally, including with regard to concerns or encouragement of nuclear technologies. Mr. Thielen is strongly encouraged to submit or participate via public comment processes.

II. ORDER

A. It Is Ordered That:

1. The Intervenor Application filed by Mr. David Thielen on April 24, 2025, as subsequently amended, is denied, consistent with the discussion above.

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

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
May 7, 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

TOM PLANT

Commissioners