

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.

**COMMISSION DECISION CONSTRUING
THE APPLICATION FOR REHEARING,
REARGUMENT, OR RECONSIDERATION AS A MOTION
FOR RECONSIDERATION OR CLARIFICATION AND
DENYING THE REQUEST**

Issued Date: October 20, 2025

Adopted Date: October 8, 2025

I. BY THE COMMISSION

A. Statement

1. Through this Decision, the Commission construes the Application for Rehearing, Reargument, or Reconsideration (“RRR”) that Holy Cross Electric Association, Inc. (“Holy Cross”) filed on September 29, 2025, as a motion for reconsideration or clarification (“Reconsideration Request”) and denies the request.

II. BACKGROUND

2. On August 22, 2025, Trial Staff of the Commission, the Colorado Energy Office, the Colorado Office of the Utility Consumer Advocate, and Public Service Company of Colorado (“Public Service” or the “Company”) filed a Joint Motion to Initiate Near-Term Procurement and Request to Establish Procedural Schedule (“NTP Motion”).

3. The NTP Motion sought an expedited process for the near-term procurement of tax-advantaged clean generation as well as limited amounts of firm generation. The NTP Motion states that the goal of the NTP is to integrate maximum clean energy by securing as much cost-effective electric generation under construction or placed in service as soon as possible. As proposed, Public Service would acquire through the NTP process up to 4,000 MW (nameplate) of renewable energy and hybrid projects; 200 MW (accredited) of thermal generation; and an additional 300 MW (accredited) of firm dispatchable generation (e.g., thermal generation or energy storage).¹ According to the NTP Motion, the proposed thermal acquisition is designed to support the integration of renewables, ensure system reliability, and work in tandem with the 300 MW firm dispatchable target.

4. The Commission received several responses to the NTP Motion, including from the Colorado Energy Consumers (“CEC”); Colorado Independent Energy Association, Colorado Solar and Storage Association, Interwest Energy Alliance, and Solar Energy Industries Association; Natural Resources Defense Council and Sierra Club along with Western Resource Advocates; and Holy Cross Electric Association, Inc. (“Holy Cross”).

5. In general, the responses expressed support for the NTP Motion. While CEC did not oppose the NTP Motion, it requested robust customer protections to ensure that customers are not harmed by shortcutting the Commission’s standard resource planning and procurement process.

6. In Holy Cross’s Response, it supported the NTP Motion but requested a Commission finding that paragraph 46 of the updated settlement agreement (“USA”) in the 2021 electric resource plan and clean energy plan (“2021 ERP/CEP”) applies to the NTP request for

¹ NTP Motion at p. 3.

proposals (“RFP”).² Holy Cross stated it discussed the NTP with Public Service and is authorized to state the following:

Paragraph 46 of the Updated Settlement Agreement gives Holy Cross the right to select resources from bids submitted in response to the JTS RFPs, subject to certain volume limitations, after Public Service selects resources. Holy Cross supports the NTP and has conferred with the Public Service about its ability to exercise these rights following Public Service’s NTP resource selections. Public Service supports Holy Cross exercising its rights with respect to the NTP, noting that Holy Cross’s resource acquisition limit is cumulative across the NTP and JTS RFPs.³

7. Holy Cross further asserted that it and Public Service agreed that the NTP RFP documents provided to bidders will mirror the language that Public Service and Holy Cross agreed to with respect to the just transition solicitation RFP contemplated in Proceeding No. 24A-0442E, as follows:

Holy Cross Comanche 3 Replacement Capacity. After Public Service’s resource portfolio is approved by the Commission, Holy Cross Electric Association may select resources from the bids submitted to this RFP to replace some or all of its 60 MW Comanche 3 capacity entitlement. Please see holycross.com/NTPRFP for more information.⁴

8. In Decision No. C25-0652-I,⁵ we granted the NTP Motion, with modifications. For example, we adopted certain additional customer protections including that the Company must include in the NTP Report a description and analysis of the total costs of the proposed projects and how the Company intends to recover the costs of NTP projects.⁶ In addition, we expressly retained discretion to limit or condition the presumption of prudence provided to NTP resources until after the Commission could evaluate the specific NTP projects.⁷

² Holy Cross’s Response, p. 5.

³ Holy Cross’s Response, pp. 3-4.

⁴ Holy Cross’s Response, p. 4.

⁵ Issued September 8, 2025.

⁶ Decision No. C25-0652-I at ¶ 24.

⁷ Decision No. C25-0652-I at ¶ 27.

9. We also approved a modified procedural schedule for the NTP in which Public Service files a Motion for Approval along with its NTP Report on December 5, 2025, an interactive technical conference takes place on December 18 and 19, 2025, and party responses to the Company's Motion for Approval are filed on January 12, 2026.⁸

10. As for Holy Cross's Response, paragraph 26 of Decision No. C25-0652-I states:

Turning to Holy Cross's requests, Holy Cross and Public Service have apparently reached agreement on Holy Cross's rights to acquire NTP projects as well as how to communicate these rights to bidders in the NTP. We see no reason to prevent Public Service and Holy Cross from moving forward consistent with their agreement but expressly allow other parties to respond to Holy Cross's proposal to acquire NTP projects in their responses to the NTP Report.⁹

III. HOLY CROSS'S RECONSIDERATION REQUEST

11. In its Reconsideration Request, Holy Cross expresses concern with Decision No. C25-0652-I and the Commission's solicitation of party comments regarding Holy Cross's proposal to acquire NTP resources. Holy Cross notes in the Reconsideration Request that the proposal for Holy Cross to acquire NTP resources was agreed to with Public Service. In addition, Holy Cross states that at the time the NTP Report will be filed and subject to party comment, Holy Cross will not have selected any resources. Holy Cross thus argues that there will not be proposal for Holy Cross to acquire resources in the NTP Report on which parties will be able to comment.¹⁰ Holy Cross further argues that if the Commission is requesting further details from Public Service in the NTP Report on how it will implement the agreement with Holy Cross, this request is unclear from the language of Decision No. C25-0652-I. Holy Cross notes the Commission already ordered such a filing in the JTS proceeding.¹¹

⁸ Decision No. C25-0652-I at ¶ 33.

⁹ Decision No. C25-0652-I at ¶ 26.

¹⁰ Holy Cross's Reconsideration Request at p. 5.

¹¹ Holy Cross's Reconsideration Request at p. 6.

12. Holy Cross expresses significant concern that the Commission is, in fact, soliciting comments as to whether Holy Cross may acquire resources as a general matter from NTP solicitation. Holy Cross requests confirmation that this is not the Commission's intent. Holy Cross states that it and Public Service are moving forward with the understanding that the Commission approved their agreement to allow Holy Cross to acquire resources through the NTP.¹²

13. Holy Cross reiterates how the Commission already approved the USA, including paragraph 46 regarding Holy Cross's rights in the JTS. Holy Cross suggests that the JTS RFP "has morphed into three RFPs," one of which is the NTP solicitation.¹³ Holy Cross reasons that the changing circumstances that led to the NTP solicitation do not alter the fundamental goals of the USA or Holy Cross's rights to replace its capacity ownership in Pueblo Unit 3. According to Holy Cross, it is unclear "why any party should now have the 'express' ability to comment upon, and presumably challenge, [paragraph 46 of the USA]."¹⁴

IV. DISCUSSION

14. Procedurally, § 40-6-114, C.R.S. contemplates that parties may file RRR to certain Commission decisions.¹⁵ Decision No. C25-0652-I, which expressly allows comments on Holy Cross's proposal to acquire NTP projects among other actions to initiate the NTP process, is an interim decision.¹⁶ In order to address the filings' merits, we therefore construe the filing as a motion for reconsideration and clarification.

¹² Holy Cross's Reconsideration Request at pp. 6-7.

¹³ Holy Cross's Reconsideration Request at p. 8.

¹⁴ Holy Cross's Reconsideration Request at p. 8.

¹⁵ §§ 40-6-114(1) and (3), C.R.S.

¹⁶ The Commission recognizes that through Decision No. C25-0701, issued September 26, 2025, it did address additional reconsideration requests. In that instance, the Commission perhaps should have also clarified that the reconsideration requests should have more appropriately been filed as motions for reconsideration. However, in that case, the filings were granted, in part. If a RRR to a final decision is denied, as opposed to granted, the statute implicates that no further action can be taken in the instant proceeding before the Commission. Here, the Commission recognizes the need to clarify its decision, but also its intention that Decision No. C25-0587-I was, as labeled, an interim decision initiating next steps and moving forward the NTP process in this same proceeding.

15. Substantively, we reject Holy Cross's Reconsideration Request and confirm that broad responses from parties to the NTP Report are allowed, including in response to Holy Cross' proposal to acquire NTP projects once more specific outcomes are known. Allowing such responses does not conflict with paragraph 46 of the USA, which states the following:

Holy Cross, in its sole discretion, shall have the option to select one or more replacement resources owned by or contracted to Holy Cross and interconnected with the Integrated Transmission System (as that term is defined in the PSCo-HCE Transmission Integration and Equalization Agreement) that will be provided appropriate transmission access, capacity accreditation entitlement and equivalent capacity credit associated with the Facility under the PSCo-HCE Power Supply Agreement, to the extent it is still in effect, by the Company following the early retirement of the Facility in an amount not to exceed Holy Cross' existing volumes from the Facility as of the date of this agreement. These may include projects selected by Holy Cross through the Pueblo Just Transition Resource Solicitation after the portfolio necessary to serve the Company's retail customers has been selected.¹⁷

16. Holy Cross argues that the "Pueblo Just Transition Resource Solicitation" referenced in the USA has "morphed into" the NTP solicitation. The Pueblo JTS anticipated in the USA, however, differs in material ways from the NTP solicitation. For example, the USA contemplates that "[a]ll 2029 and 2030 resource needs identified will be filled through the Pueblo Just Transition Plan solicitation, which will utilize a Resource Acquisition Period through end of year 2031."¹⁸ In other words, the USA contemplates that the Company would fill its entire resource need through 2031 via the JTS and that Holy Cross could acquire JTS resources, but only "after the portfolio necessary to serve the Company's retail customers has been selected."¹⁹ The NTP solicitation, however, is not intended to satisfy all of the Company's resource needs but caps the level of acquisition (*e.g.*, up to 4,000 MW of nameplate renewable energy). Holy Cross's

¹⁷ 2021 ERP/CEP USA, ¶ 46.

¹⁸ 2021 ERP/CEP USA at ¶ 15.

¹⁹ 2021 ERP/CEP USA at ¶ 46.

interpretation of the USA would allow Holy Cross to acquire NTP resources prior to the Company satisfying its resource needs.

17. In Decision No. C25-0652-I, we saw “no reason to prevent Public Service and Holy Cross from moving forward consistent with their agreement.”²⁰ We did not, however, unequivocally approve the agreement. The agreement between Holy Cross and Public Service that the USA extends to the NTP solicitation only appears in Holy Cross’s Response to the NTP Motion. The NTP Motion itself is silent on the proposal, and the NTP Motion’s proposed procedural schedule did not contemplate the filing of replies. Indeed, the NTP Motion’s procedural schedule requested a response deadline of August 29, 2025, and a written Commission decision on the NTP Motion by September 8, 2025.²¹ Thus, the Commission has not yet heard from any other party except Public Service and Holy Cross as to whether there are concerns applying paragraph 46 of the USA to the NTP solicitation. Given the expedited schedule to approve the NTP Motion and endorse the NTP RFP, allowing Public Service and Holy Cross to move forward with their agreement but soliciting party feedback is an appropriate and administratively efficient approach.

18. In granting the NTP Motion to initiate next steps, the Commission displayed a high level of flexibility and expediency, as necessitated by federal policy changes regarding clean energy resources. CEC does not oppose the NTP solicitation but characterized it as “shortcutting the Commission’s standard resource planning and procurement processes.”²² While the Commission has enacted several additional customer protections to ensure the NTP process ultimately benefits ratepayers, furthers the state’s emission reductions goals, and is in the public

²⁰ Decision No. C25-0652-I at ¶ 26.

²¹ NTP Motion at p. 9.

²² Decision No. C25-0652-I at ¶ 16.

interest, we will not prohibit parties from raising concerns about applying paragraph 46 of the USA to the NTP. Additional party input could prove especially critical given the novel regulatory nature of the NTP. Ultimately, allowing Holy Cross to acquire NTP resources per its proposal may not negatively impact Public Service's customers in any way, but prohibiting additional party feedback at this stage could be unnecessarily limiting as the full process unfolds. Parties may therefore provide broad responses following the NTP Report.

V. ORDER

A. The Commission Orders That:

1. The Application for Rehearing, Reargument, or Reconsideration of Holy Cross Electric Association, Inc. filed on September 29, 2025, is construed as motion for reconsideration and clarification and is denied.

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

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
October 8, 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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Commissioners