

I. DISSENT OF COMMISSIONER MEGAN M. GILMAN

1. I agree with the majority of parties to this Proceeding that the Company failed to make a showing that customer-funded participation in SPP Markets+ is in the public interest. The Company fundamentally failed to satisfy the public interest criteria listed in Commission Rule 3752(a) and, therefore, should have properly been denied by the Commission without prejudice.

2. Rule 3753(a)(I) requires a Day Ahead Market to have “in place protocols that will implement a GHG Tracking and Accounting System enabling the fair and timely tracking, reporting, and accounting of GHG emissions sufficient to ensure compliance with the emission reduction requirements in 25-7-102 and 40-2-125.5, C.R.S”. No evidence has been put forth to indicate that such a tracking, reporting and accounting program is in place. SPP Markets+ appears to have protocols that are still under development, with several issues left to be resolved, leaving the final result unknown. Further, several parties point to the new potential for unprecedented federal interference, especially related to emissions tracking. Such an obvious and emerging risk should not be taken lightly and could stand to significantly complicate processes moving forward. While a conditional approval allowing for reevaluation under a significant situation of interference in the GHG tracking is better than nothing, it also may make for a very messy waste of millions of dollars in ratepayer funding by going down this path before any significant showing of benefits and without any disclosure from the Company as to the exit timeline and terms.¹ I also agree with party criticism that the Company’s modeling of potential GHG benefits were cobbled together from older and disparate resources, creating an outcome that cannot be fully relied upon to understand expectations regarding GHG impacts.

¹ See Hr. Tr. May 27, 2025, 154:8-10.

3. Rule 3753(a)(II) also requires that the Day Ahead Market “has a plan to put in place policies and operational practices to optimize the efficient dispatch, exchange of energy, and unit commitment between markets, if there is more than one regional market construct operating or proposed to operate in Colorado.” While I appreciate the majority’s opinion that having some Colorado utilities participate in SPP RTO West and some in SPP Markets+, with the same market operator, itself is progress to minimizing or working through seams issues between the two, such a perspective is unsupported by the record in this proceeding. There does not appear to be a solid plan for better integration of these markets, nor a timeline upon which to do so provided in this record.

4. Rule 3753(a)(III) also requires that for a public interest determination, there must be “sufficient modeling and other analytical support showing that the expected benefits of joining that market, including production cost decreases, reliability improvements, and emissions reductions, are likely to exceed the expected costs.” First, it is important to realize we are working only with cost estimates, with an unknown actual cost to the Company’s ratepayers. Second, the production cost modeling appears to utilize the unprecedentedly high forecasts from Proceeding No. 24A-0442E (the Company’s Just Transition Plan or “JTS” proceeding),² which was substantially reduced in Rebuttal in that Proceeding, yet those reductions were not incorporated into these projections. If lower forecasts were used, as might be supported by the Company’s own revisions in the JTS Proceeding upon which the forecast used here was based, as well as some of the Commission’s expressed reservations in that Proceeding on the forecasts, net costs and customer rates would increase from the projections provided on this record.³ Additionally, even

² See Proceeding No. 24A-0442E, Hr. Ex. 101, Attachment JWI-5.

³ See Hr. Tr. May 27, 2025, 152:6-16.

based on the modeling provided by the Company in Hearing Exhibit 102, Attachment MRG-4, the Company's participation in Markets+ is not expected to produce cumulative net benefits until the year 2040.⁴ In the year 2030, when the Company is statutorily required to join an OWM, participation in Markets+ will have resulted in a net *cost* of approximately \$26M, outweighing any benefits.⁵ Further, the uncertainty associated with the total cost of joining Markets+, which is expressed as an "estimate", the uncertainty associated with who other participants will be, how future participants will influence costs,⁶ and the high forecasts used by the Company certainly lead to the potential for net costs that are higher than shown in the Company's modeling.

5. The Company specifically identified reliability benefits to joining the WRAP as an additional benefit of joining Markets+. This qualitative addition seems irrelevant in the discussion to join Markets+, because the Company could join the WRAP independent of joining Markets+. So, while it is accurate that such benefits could come from the necessity to join the WRAP in order to participate in Markets+, it is disingenuous to point to this as a benefit of Markets+, as the WRAP benefits could be achieved for a significantly lower cost in just joining WRAP itself.

6. It is without dispute that the Company is required to join an OWM by 2030 by SB 21-072. However, in this proceeding, the Company made several statements making it seem that the Company was already planning on, instead, applying for a waiver of the requirement to join an OWM. While part of the majority's reasoning for moving forward with Markets+ participation was to take a step closer to a full market, this record seems to indicate the opposite – that the Company may utilize participation in Markets+ as an alternative to, not as a step to, joining a full wholesale market. It is notable that modeling completed by the Commission's

⁴ Hr. Ex. 102, Attachment MRG-4.

⁵ *Id.*

⁶ Hr. Tr. May 27, 2025, 80:25-81:7.

staff ascribes the greatest benefits for customers to a full wholesale market, rather than other options like day ahead markets. The Company provided no commitment that the costs being paid, including for things like IT systems and integration would continue to be useful in an OWM. Further, since the involvement in Markets+ will produce cumulative net costs rather than net benefits by 2030, it is unclear why it would be in the public interest to join a market that is not reasonably expected to produce net benefit by the date the Company is statutorily obligated to move in a different direction. Further, the Company stated its expectation that it would incorporate the current net cost of Markets+ participation into any analysis on the costs or benefits of then moving to a wholesale market. Given the Company's other statements expressing their displeasure with certain aspects of joining an OWM and its apparent expectation to submit a waiver to the Commission as an alternative to an application to join a full wholesale market, such accounting may be interpreted as a way to bolster the Company's case, years in advance, to seek a waiver instead of following the statutory requirement. While Commission rules did not explicitly require the Company to evaluate participation in other markets, by comparison, in its application, this financial interaction may practically make such an evaluation necessary, as the Company intends to use the financial outcomes of this decision to influence that future decision. Therefore, I have not found on this record that entrance into Markets+ would aid the Company as a step in a

continuum to joining an OWM and instead have found the record to show that it is more likely to be used to enhance their stated interest to *not* do so.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

MEGAN M. GILMAN

Commissioner

ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Rebecca E. White".

Rebecca E. White,
Director