

Decision No. C25-0853-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 MOTION
FOR STAY AND REVISING DEADLINES FOR
CONTRACT LITIGATION PROCESS**

Issued Date: November 26, 2025

Adopted Date: November 26, 2025

I. BY THE COMMISSION

A. Statement

1. Through this Decision, we deny the Joint Motion for Stay (“Motion for Stay”) that the Colorado Independent Energy Association; the Colorado Solar and Storage Association, the Solar Energy Industries Association, and Advanced Energy United (“Clean Energy Industries”); and the Interwest Energy Alliance (collectively, the “IPP Trade Associations”) filed on November 17, 2025.

2. While we deny the request to hold in abeyance the procedural schedule for the contract litigation process established in paragraph 406 of Decision No. C25-0747 (“Phase I Decision”), we extend the remaining deadlines such that responsive comments to the revised power purchase agreements (“PPAs”) are due on December 15, 2025, and reply comment from Public Service Company of Colorado (“Public Service” or the “Company”) is due on January 2, 2026.

B. Discussion

3. In our Phase I Decision, we resolved several disputed issues regarding Public Service’s requested conforming bid policy. More specifically, in paragraph 406 of the Phase I Decision, we directed the following:

To facilitate the development of minimally negotiable PPAs, we find it appropriate to resolve several of the key disputed issues, including provisions regarding security requirements, events of default, force majeure, and transfer limitation. Within 14 days of this Decision, Public Service shall submit updated versions of each PPA that incorporates our directives. The Company must include both clean and redline versions. Intervenor comments on the revised PPAs, including redlined versions with proposed language, are due within 14 days of the Company’s submission of the revised PPAs. Any reply comments and updated PPA language from Public Service are due within 14 days after intervenor comments. The Commission will target issuing a decision within 21 days of the reply comments and may convene a technical conference, as necessary. This will result in a final set of PPAs to which bids must conform for the base RFP.¹

4. The Motion for Stay seeks to pause the procedural schedule for the PPA contract process outlined in paragraph 406 (“Contract Litigation Process”), pending the Commission’s written decision on the Applications for Rehearing, Reargument, or Reconsideration (“RRRs”) of the Phase I Decision. The deadline to file RRRs of the Phase I Decision is November 26, 2025.

5. In the Motion for Stay, the IPP Trade Associations argue that moving forward with the Contract Litigation Process before resolving applications for RRR would prejudice parties’ due process rights, as they would be required to comply with a process they are simultaneously challenging on RRR. The IPP Trade Associations indicate they will continue to challenge the conforming bid policy in RRR, arguing that an inflexible, standardized conforming bid policy may hinder capturing remaining tax credits and meeting resource adequacy needs.² The IPP Trade

¹ Phase I Decision at ¶ 406.

² Motion for Stay at p. 6.

Associations warn that the Contract Litigation Process in paragraph 406 may delay or derail the Just Transition Solicitation resource procurement. The IPP Trade Associations express that in RRR they may propose procedural modifications to the timelines for the Contract Litigation Process or an alternative to the process. They state there are questions as to whether the PPA terms unaddressed in the Phase I Decision are still negotiable and whether there will be a period of contract mediation to allow discussion of terms outside of litigation.³

6. The IPP Trade Associations further assert the overlapping RRR and contract Litigation Process will materially affect their ability to advocate for a different result. They assert that their ability to argue for modifications to the Contract Litigation Process in RRR “faces certain prejudice” if the Contract Litigation Process largely plays out before the IPP Trade Associations challenge the process in RRR.⁴ They contend the overlapping timelines would create administrative inefficiencies and risk unnecessary expenditure of resources, including the ratepayer-funded litigation costs of Public Service if the process is later modified or reversed. The IPP Trade Associations acknowledge the Motion for Stay will delay the Contract Litigation Process by about two months but reason that no time will ultimately be lost if the Contract Litigation Process is reversed, modified, or even clarified.⁵ The IPP Trade Associations assert that “by the time the Commission issues its RRR decision, the Contract Litigation Process would largely have played out and mooted many relevant arguments before the Commission on RRR.”⁶

7. The IPP Trade Associations go on to detail the difficulties of complying with the Contract Litigation Process at the same time they are preparing RRRs. They note that out of the

³ Motion for Stay at p. 9.

⁴ Motion for Stay at p. 7.

⁵ Motion for Stay at p. 8.

⁶ Motion for Stay at p. 11.

14 days allotted to prepare responses to the revised PPAs, six of those days overlap with the time provided to prepare RRRs. They also note that several days will be lost for the Thanksgiving holiday.⁷

8. In accordance with the Phase I Decision, on November 20, 2025, Public Service submitted revised PPAs. The Company asserts the revised PPAs incorporate the positions set forth in the Company's Rebuttal Case, the directives in the Commission's Phase I Decision, and limited minor cleanup to certain language.

9. On November 20, 2025, the Commission issued Decision No. C25-0836-I setting shortened response time to the Motion for Stay.

10. Consistent with Decision No. C25-0836-I, on November 21, 2025, Public Service filed its Response to the Motion for Stay. No other responses were filed.

11. In the Company's Response, Public Service argues the Motion for Stay should be denied, asserting that granting it will delay the Phase II process. Public Service expresses its support with the Commission's process for resolving PPA terms. The Company warns that granting the Motion for Stay would likely result in the PPA issues not being resolved until three or more months following the Commission's decision on the RRR. Public Service asserts that such a delay is improper in light of current commercial realities, the need to bring resources online in a timely manner, resource adequacy challenges, and tax credit qualification for projects that may be bid in the JTS.⁸

12. Public Service argues that the IPP Trade Associations have already extensively documented their concerns with certain terms, and the Commission gave extensive guidance on

⁷ Motion for Stay at p. 9.

⁸ Public Service Response at p. 2.

those terms in its deliberations and in the Phase I Decision. The Company asserts there is no need to wait for the RRR process to play out before considering the PPA redlines. In fact, Public Service argues it is better to run the two processes in parallel.

13. The Company also asserts there is no due process issue with the Contract Litigation Process. The Company argues the process provides IPP Trade Associations with notice and an opportunity to be heard on the model PPA terms. Contrary to the IPP Trade Association's characterization, Public Service asserts that any Commission decisions on RRR will be incorporated into the PPAs prior to the Request for Proposal.⁹

14. Despite its broad opposition to the Motion to Stay, the Company states it is sympathetic to the challenges of coordinating on the response filing over the Thanksgiving holiday weekend. Public Service offers that the Commission could consider extending by four days the deadline to respond to the revised PPAs.¹⁰

15. We deny the Motion for Stay but extend by 11 days the deadline for responses to the revised PPAs. We agree with the Company that requiring responses to the PPA redlines prior to the Commission's resolution of RRRs does not create due process concerns, nor does setting the deadline for PPA responses prior to the resolution of the RRRs moot the arguments that the IPP Trade Associations put forth in RRR. Public Service correctly points out that the Commission could still modify the Contract Litigation Process in our RRR decision, regardless of whether the PPA revisions have been fully briefed. While it is theoretically possible that our RRR Decision modifies the Contract Litigation Process, this risk does not justify the requested stay.

⁹ Public Service Response at pp. 3-4.

¹⁰ Public Service Response at p. 4.

16. While we disagree with arguments that further briefing on the PPA revisions should wait until after our RRR decision, we acknowledge the challenges of preparing responses to the PPA revisions and applications for RRR at the same time, especially over the Thanksgiving holiday. Accordingly, we extend the deadline for responsive comments to the revised PPAs to December 15, 2025. This will provide approximately two full weeks after the RRR deadline and the Thanksgiving holiday to prepare and submit comments. Public Service's new deadline to file reply comment is January 2, 2026.

II. ORDER

A. The Commission Orders That:

1. The Joint Motion for Stay filed by the Colorado Independent Energy Association, the Colorado Solar and Storage Association, the Solar Energy Industries Association, Advanced Energy United, and the Interwest Energy Alliance on November 17, 2025, is denied.

2. We modify the deadlines set forth in paragraph 406 of Decision No. C25-0747 such that responsive comments to the revised power purchase agreements are due on December 15, 2025, and reply comment from Public Service Company of Colorado is due on January 2, 2026.

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

(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

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Commissioners

COMMISSIONER MEGAN M. GILMAN
ABSENT