

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 25A-0409E

IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR REACTIVE/VOLTAGE SUPPORT AND GRID STRENGTH REINFORCEMENT FACILITIES AT THE GOOSE CREEK AND MAY VALLEY SUBSTATIONS.

**INTERIM DECISION SCHEDULING HEARING,
ESTABLISHING PROCEDURAL SCHEDULE,
EXTENDING DEADLINE FOR FINAL DECISION, AND
ADDRESSING OUTSTANDING MOTIONS**

Issued Date: December 4, 2025

I. STATEMENT, SUMMARY AND PROCEDURAL HISTORY

A. Statement and Summary

1. This Decision addresses Notices of Intervention of Right; grants Public Service Company of Colorado's ("Public Service" or the "Company") Motion for Extraordinary Protection of Highly Confidential Information filed September 26, 2025 ("Motion for Extraordinary Protection" or "Motion"); waives the remaining response time to the Company's "Unopposed Motion . . . to Approve Consensus Procedural Schedule and Request for Waiver of Response Time" filed November 25, 2025 ("Unopposed Motion" or "Motion to Approve Schedule"); grants the Unopposed Motion; schedules a fully remote evidentiary hearing for March 10 and 12, 2026; establishes a procedural schedule and procedures to accommodate that hearing; and extends the deadline for a final decision to issue to July 13, 2026.

B. Procedural History¹

2. On September 26, 2025, Public Service filed the above-captioned Application with exhibits. The Application seeks a Certificate of Public Convenience and Necessity to construct, own, and operate reactive/voltage support facilities needed to support the operation of the Colorado Power Pathway's 345 kV Transmission Project under the portfolio of generation resources approved as part of the Company's 2021 Electric Resource and Clean Energy Plans (the "Project").

3. Also on September 26, 2025, Public Service filed its Motion for Extraordinary Protection with exhibits.

4. On October 1, 2025, the Commission provided public notice of the Application and established a 30-day deadline to file interventions for everyone except Colorado Public Utilities Commission Trial Staff ("Staff"), who was given an additional seven days to intervene.²

5. On October 29, 2025, Staff filed a Notice of Intervention as of Right by Trial Staff of the Commission, Entry of Appearance, Notice Pursuant to Rule 1007(a) and Rule 1401, and Request for Hearing ("Staff's Intervention").

6. On October 31, 2025, the Office of the Utility Consumer Advocate ("UCA") filed a Notice of Intervention as a Matter of Right, Entry of Appearances and Request for a Hearing ("UCA's Intervention").

7. On November 5, 2025, during its weekly meeting, the Commission referred this matter by minute entry to an administrative law judge ("ALJ") for disposition.

¹ Only the procedural history necessary to understand this Decision is included.

² Notice of Application Filed on October 1, 2025 ("Notice").

8. The undersigned ALJ was subsequently assigned to this Proceeding. The ALJ informally directed Public Service to confer with everyone who filed an intervention on a procedural schedule and to file a proposed consensus procedural schedule by November 25, 2025.

9. On November 25, 2025, Public Service filed the Unopposed Motion.

II. DISCUSSION AND FINDINGS

A. Interventions

10. Per Rule 1401(e), 4 *Code of Colorado Regulations* (“CCR”) 723-1 of the Commission’s Rules of Practice and Procedure, Staff may intervene of right in any Commission proceeding and need not state the basis for a legally protected right that may be affected by the proceeding.³ Any other person or entity wishing to intervene of right must identify the basis for the legally protected right that may be affected by the proceeding.⁴

11. Because Staff may intervene of right in any Commission proceeding, and its Intervention is timely, Staff is acknowledged as a party to this Proceeding.⁵

12. In support of its Intervention, UCA submits that the Application implicates its statutory responsibilities under § 40-6.5-104(1) and (2), C.R.S.⁶ UCA identifies numerous issues that it wishes to address, including whether approving the Application serves the public interest, and requests a hearing on the Application.⁷ The Company has made no filing objecting to UCA’s Intervention.⁸ Based on the information in its Intervention and because the Company has not objected to UCA’s Intervention, UCA is acknowledged as a party to this Proceeding.

³ See Rule 1401(e), 4 CCR 723-1.

⁴ Rule 1401(b), 4 CCR 723-1.

⁵ See Rule 1401(e), 4 CCR 723-1.

⁶ See UCA’s Intervention at 2-3. Although the UCA does not directly assert that its statutory responsibilities are implicated by the Application, the ALJ infers this from UCA’s Intervention. *See id.*

⁷ *Id.* at 3.

⁸ See Rule 1400(d) and 1401(b), 4 CCR 723-1.

B. Motion for Extraordinary Protection

13. Rule 1101(b) requires that a motion seeking extraordinary protection of highly confidential information: include a detailed description of the information to be protected; state the specific relief sought and grounds therefor; advise the parties of the request and the subject matter of the information at issue; establish that the information at issue is highly confidential and that highly confidential protection is necessary because rules providing protection for confidential information offer insufficient protection; be accompanied by a proposed nondisclosure agreement and an affidavit with names of all persons who have access to the information and the timeframe for protection; and either file the highly confidential information or establish why doing so would be overly burdensome, impractical or too sensitive for disclosure.⁹

14. The Motion seeks extraordinary protection to restrict access to highly confidential pricing, schedule, and technical information supplied by Hitachi Energy USA Inc. (“Hitachi”) for portions of the equipment to be installed as part of the Project; vendor contracts and contract data; input costs, assumptions, estimates, site specifications, arrangements, and diagrams for the Project substations; cost projections including Risk Registers and the detailed assumptions for the cost projections; workpapers and exhibits provided in support of the Company’s Application that contain an of the foregoing highly confidential information; and any other documents containing or identifying the highly confidential information that may arise in this Proceeding, including testimony and attachments thereto, discovery requests and responses (including attachments), hearing transcripts, decisions, and any other associated documents.¹⁰

⁹ Rule 1101(b), 4 CCR 723-1

¹⁰ Motion for Extraordinary Protection at 1-2 and 4-5.

15. As relevant, Public Service requests the Commission restrict access to the highly confidential information to Commissioners, advisors, advisory counsel, ALJs, Staff and its attorneys, UCA and its attorneys, and up to three attorneys and two subject matter experts in a specific area of expertise representing any other party to this proceeding that execute the appropriate non-disclosure agreement(s) (“NDA”) provided with the Motion, (Attachments A and B to the Motion).¹¹ The Company also provided an affidavit signed by Michael V. Pascucci, identifying persons with access to the highly confidential information and requesting that the information be subject to extraordinary protection indefinitely.¹²

16. In support, Public Service argues that the Commission has recognized that business information revealing input costs, assumptions, estimates, and vendor contracts is highly sensitive commercial and competitive information, and that disclosure can result in unfair advantages between potential competitors and harm to the Company, its customers, and its vendors (like Hitachi).¹³ Public Service adds that disclosure of the highly confidential pricing, scheduling, and technical information supplied by Hitachi for portions of the equipment to be installed as part of the Project, and contracts between Public Service and Hitachi could seriously harm the business relationship between Public Service and Hitachi, and discourage Hitachi and other vendors from entering into agreements with the Company to construct or install utility facilities.¹⁴ The Company asserts that the Commission has consistently provided extraordinary protection for the information

¹¹ *Id.* at 4, and 7-9. The Company notes that these individuals or entities would have to execute the relevant NDA if the Commission does not have on file a current annual non-disclosure agreement per Rule 1100(h), 4 CCR 723-1. *Id.* at 8. Public Service also seeks to prevent interveners who are or may become a potential competitive transmission developer or potential vendor/supplier/counterparty that might support the development or construction of a transmission project in Colorado from receiving, accessing, or viewing the highly confidential information. *Id.* at 4. Since Staff and UCA are the only interveners, this request is not relevant.

¹² Attachment C to Motion for Extraordinary Protection at 2.

¹³ Extraordinary Protection at 2 and 5.

¹⁴ *Id.* at 5.

at issue here.¹⁵ The Company argues that extraordinary remedies are necessary to protect the highly confidential information from disclosure because the Commission's rules governing ordinary confidentiality would allow anyone who signs a non-disclosure agreement to access the information, which is insufficient.¹⁶

17. In response to Rule 1101(b)(VII)'s requirement to file the highly confidential information at issue, the Company explains that because it is providing the highly confidential information in response to discovery requests, consistent with Rule 1101(e), it did not attach the documents to the Motion.¹⁷

18. As there have been no responses to the Company's Motion for Extraordinary Protection and the time to respond has long elapsed, the ALJ deems the Company's Motion confessed and unopposed.¹⁸

19. Based on the relevant authority, the information in the Company's Motion (discussed above), and because the Motion is unopposed, the ALJ grants the Motion for Extraordinary Protection and affords extraordinary protection for the referenced highly confidential information as requested.¹⁹

20. To be clear, the extraordinary protection that this Decision grants extends to executable versions of documents containing such information, and any other disclosure of the same information in relation to this Proceeding, in whatever format, including during an

¹⁵ *Id.* at 6, citing Decision No. R24-0368-I, at ¶¶ 23-24 (issued May 31, 2024) in Proceeding No. 24A-0131E; Decision Nos. C21-0464-I at ¶¶ 4 and 10 (issued July 27, 2021) and C21-0483-I (issued August 5, 2021) in Proceeding No. 21A-0096E.

¹⁶ *Id.* at 7.

¹⁷ *Id.* at 9.

¹⁸ See Rule 1400(b) and (d), 4 CCR 723-1.

¹⁹ To the extent necessary, the ALJ waives Rule 1101(b)(VII), 4 CCR 723-1, for purposes of the Motion for Extraordinary Protection. Doing so does not imply or mean that the ALJ agrees that the Company appropriately relies on Rule 1101(e) as a basis not to file the highly confidential information.

evidentiary hearing. All parties must ensure that filings (particularly exhibits and attachments) to which extraordinary protection is afforded and which include confidential information comply with the requirements in Attachment B to this Decision. Several of the Company's exhibit filings fail to do this. For example, on September 26, 2025, the Company filed numerous confidential or highly confidential attachments to exhibits, but the public versions and the confidential or highly confidential versions of those documents fail to comply with the requirements in ¶¶ 36 and 38-39 in Attachment B.²⁰ Consistent with ¶ 4 in Attachment B, Public Service must revise those exhibits' attachments to comply with Attachment B and refile those within 14 days of this Decision's issuance. As then marked and refiled, those exhibits' attachments will be included in the hearing exhibit spreadsheet as the original versions of the same and will not be treated as revisions, as contemplated by Attachment B (*i.e.*, no need to mark them with a revision number). Failing to follow Attachment B's requirements relating to confidential or highly confidential information may result in such information not receiving the protection afforded or requested.

C. Procedural Schedule

21. The Motion to Approve Schedule states that all parties agree to the schedule proposed therein, rendering it unopposed.²¹ It proposes the following procedural schedule:

Event	Date or Deadline
Answer Testimony	January 16, 2026
Rebuttal & Cross-Answer Testimony	February 13, 2026
Corrected Testimonial Exhibits	February 23, 2026
Pre-Hearing Motions (other than motions related to settlement agreements)	February 24, 2026
Settlement Agreements and Motions to Approve Settlement Agreements	February 26, 2026

²⁰ See Hearing Exhibit 102, Attachments ADW-1 to -2, ADW-1C to -2HC, ADW-7 to -9, and ADW-7HC to -9HC.

²¹ Motion to Approve Schedule at 1.

Before the Public Utilities Commission of the State of Colorado

Decision No. R25-0873-I

Proceeding No. 25A-0409E

Settlement Testimony	March 3, 2026
Non-Testimonial Exhibits	March 3, 2026
Exhibit and Witness Lists	March 3, 2026
Joint Witness Examination Matrix	March 3, 2026
Responses to Prehearing Motions	March 6, 2026
Hearing	March 10 and 12, 2026
Statements of Position	March 26, 2026 ²²

22. The Unopposed Motion states that the parties agree that the Rule 1405, 4 CCR 723-1, will govern discovery; that Rules 1100 and 1101, 4 CCR 723-1, will govern confidential and highly confidential information; and that the hearing should be held remotely.²³ Because the Motion to Approve Schedule is unopposed, it asks that the response time to it be waived.²⁴

23. Because the Motion to Approve Schedule is unopposed, the ALJ finds good cause to waive the remaining response time to it and does so.²⁵

24. The ALJ finds that the requests for relief in the Motion to Approve Schedule are reasonable and appropriate. As such, the Motion to Approve Schedule is granted.

25. Attachment A hereto includes important technical information and requirements to facilitate accommodating remote hearing participation. Persons wishing to observe but not participate in the hearing are encouraged to observe the hearing via the Commission's webcast, rather than join the Zoom hearing. This will help minimize background noise and avoid issues that may arise should the ALJ need to hold confidential or highly confidential hearing sessions.

26. Attachment B includes information and requirements to facilitate electronic evidentiary presentations at the hearing. Many requirements in Attachment B apply to formatting, marking, and filing exhibits, and are critical to ensure a smooth evidentiary presentation.

²² *Id.* at 3-4.

²³ *Id.* at 4.

²⁴ *Id.*

²⁵ *See* Rule 1400(b), 4 CCR 723-1.

Attachment B has been modified as compared to past proceedings to clarify numerous requirements that parties in other proceedings failed to comply with or struggled to understand. As such, parties must carefully review Attachment B to ensure their compliance.²⁶

27. To minimize the potential that the hearing may be disrupted by non-participants, the link and meeting ID or access code to attend the hearing will be provided to the parties' counsel by email before the hearing, and the parties will be prohibited from distributing that information to anyone not participating in the hearing.²⁷ Counsel and the parties are responsible for ensuring that their witnesses receive the Zoom information needed to join the hearing.

28. *The parties are on notice* that consistent with Commission practice, friendly cross-examination will not be permitted during the evidentiary hearing.

D. Deadline for Final Commission Decision

29. Given the approved procedural schedule and the nature of the issues involved in this Proceeding, the ALJ finds that additional time is necessary for a final Commission decision to issue. As such, the ALJ extends the statutory deadline for a final Commission decision to issue by 130 days, as permitted by § 40-6-109.5(1), C.R.S. Because the Commission deemed the Application complete on November 5, 2025 (as contemplated by § 40-6-109.5, C.R.S.), the deadline for a final Commission decision is extended to July 13, 2026.²⁸

²⁶ Any party who is uncertain as to whether they have correctly followed the required procedures may contact Casey Federico at casey.federico@state.co.us, Stephanie Kunkel at stephanie.kunkel@state.co.us or April Crain at april.crain@state.co.us to confirm that they have correctly followed the procedural requirements.

²⁷ Approximately one week before the hearing, counsel will receive an email with information needed to join the hearing at the email addresses on file with the Commission for this proceeding. Counsel must ensure that the Commission has their most current email address.

²⁸ § 40-6-109.5(1), C.R.S.

III. ORDER

A. It Is Ordered That:

1. Consistent with the above discussion, Public Utilities Commission Trial Staff (“Staff”) and the Office of the Utility Consumer Advocate (“UCA”) are acknowledged as intervening parties in this Proceeding. As a result, Public Service Company of Colorado (“Public Service” or the “Company”), Staff, and the UCA are the parties to this Proceeding.

2. Public Service’s Motion for Extraordinary Protection of Highly Confidential Information filed September 26, 2025 is granted. Within 14 days of this Decision’s issuance, Public Service must revise and refile exhibits and attachments thereto that include confidential or highly confidential information to comply with the requirements in Attachment B hereto, which will be treated as explained in ¶ 20 above.

3. The deadline for a final Commission decision to issue in this Proceeding is extended by 130 days to July 13, 2026, per § 40-6-109.5(1), C.R.S.

4. The remaining response time to the Company’s “Unopposed Motion . . . to Approve Consensus Procedural Schedule and Request for Waiver of Response Time” filed November 25, 2025 (“Unopposed Motion”) is waived and the Unopposed Motion is granted, consistent with the above discussion and the below ordering paragraphs.

5. A fully remote evidentiary hearing on the above-captioned Application is scheduled as follows:

DATE: March 10 and 12, 2026

TIME: 9:00 a.m.

PLACE: By videoconference using Zoom.

6. The parties are responsible for sharing the link, meeting ID code, and passcode with 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.

7. All parties must comply with the requirements in Attachments A and B to this Decision, which are incorporated into this Decision as if fully set forth herein.

8. Non-participants in the evidentiary hearing may observe the hearing live through the Commission's webcast for the Hearing Room assigned for each of the above hearing dates, which may be accessed at this link: <https://puc.colorado.gov/webcasts>.

9. **Answer Testimony Deadline.** Interveners' answer testimony must be filed and served by January 16, 2026.

10. **Rebuttal and Cross-Answer Testimony Deadlines.** Black Hills' rebuttal testimony must be filed and served by February 13, 2026.

11. **Corrections, Modifications, and Amendments to Testimonial Exhibits.** By February 23, 2026, the parties must file and serve any corrected, modified, or amended testimonial exhibits and attachments thereto, except for changes to settlement testimony (*i.e.*, corrections to answer, rebuttal, and cross-answer testimony and attachments).²⁹ The parties are **again** reminded that such filings **must comply** with the specific requirements in Attachment B relating to corrected, modified, or amended testimonial exhibits and attachments. The parties may make corrections to testimonial exhibits and attachments thereto without filing a motion seeking leave to do so. Corrections include minor changes, such as fixing typographical or formatting errors. Corrections do not include material or substantive changes. Material or substantive changes

²⁹ As noted below, settlement testimony is due on March 3, 2026, so it is not possible to file corrections to the same before that date.

to a testimonial hearing exhibit or attachment thereto amount to amending or modifying such documents. Any party wishing to amend or modify a testimonial exhibit or attachment thereto must file a motion establishing good cause; such a motion must be filed as soon as the party becomes aware of the need to amend or modify the filing. The parties must confer with each other prior to filing such a motion. Unreasonable delay in filing such a motion is grounds to deny the motion.

12. **Deadlines for Prehearing Motions and Responses Thereto.** The parties must file and serve any prehearing motions unrelated to settlement agreements by February 24, 2026. Responses to the same must be filed by March 6, 2026.

13. **Deadline for Stipulations, Settlement Agreements, and Motions to Approve the Same.** The parties must file and serve any stipulations and settlement agreements and motions to approve the same by February 26, 2026.

14. **Deadline for Settlement Testimony.** The parties must file and serve testimony in support of or in response to any settlement agreement that is filed by March 3, 2026.

15. **Deadline for Non-Testimonial Hearing Exhibits.** By March 3, 2026, the parties must file and serve any non-testimonial hearing exhibits that they plan to offer into evidence (*i.e.*, exhibits not already filed per other deadlines). The parties are not required to pre-file and serve hearing exhibits which may be used solely for impeachment, to refresh recollection, or for rebuttal. *The parties are on notice* that if they do not prefile an exhibit for any of these reasons, they must establish at hearing that the exhibit is being used for impeachment or to refresh recollection consistent with the requirements of Rules 612 and 613 of the Colorado Rules of Evidence, or for rebuttal. Any party may use any other party's hearing exhibits during the hearing and should not file them separately.

16. **Deadline for Hearing Exhibit and Witness Lists.** By March 3, 2026, the parties must file and serve complete exhibit and witness lists. Witness lists must include a brief description of the witnesses' anticipated testimony and the witnesses' contact information. Exhibit lists must identify the hearing exhibit and attachment number, the full title of each hearing exhibit and attachment thereto and include a brief description of each hearing exhibit and attachment thereto that the party intends to offer into evidence during the evidentiary hearing. Describing an exhibit or attachment solely by identifying the exhibit or attachment number **does not meet** this requirement.

17. **Deadline for Joint Witness Examination Matrix.** By March 3, 2026, the parties must file a joint witness examination matrix listing all the witnesses the parties anticipate will testify at the hearing and the anticipated amount of time each party will use to examine the witnesses. To the extent practicable, the witnesses should be listed in the order in which they will be called. The parties also must assume that the Administrative Law Judge will use some time to examine witnesses.

18. **Deadline for Statements of Position.** By March 26, 2026, the parties must file and serve Statements of Position.

19. **Hearing Exhibit Number Block Assignments.** To efficiently organize exhibits that will be presented during the evidentiary hearing, all parties must use a unified numbering system for all hearing exhibits, consistent with the directions in Attachment B, using hearing exhibits within their assigned exhibit number blocks. Public Service is assigned hearing exhibit numbers 100-199; Staff is assigned hearing exhibit numbers 200-299; and the UCA is assigned hearing exhibit numbers 300-399. Any party requiring more exhibit numbers than assigned may use the same numerical sequence of exhibit numbers assigned to them, but in the 1000 range (*e.g.*,

Public Service will use hearing exhibit numbers 1100-1199 and Staff will use hearing exhibit numbers 1200-1299, *etc.*). Hearing Exhibit 400 is reserved for the hyperlinked spreadsheet that will be used during the hearing to present evidence.

20. **Obligation to Review Hearing Exhibit Spreadsheet.** The parties must review the hyperlinked spreadsheet (distributed to them prior to the hearing) that will be used during the hearing to present exhibits from the administrative record and confirm that it correctly includes all the exhibits that they intend to offer into evidence during the hearing.

21. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

MELODY MIRBABA

Administrative Law Judge

ATTEST: A TRUE COPY

Rebecca E. White,
Director