

Decision No. C25-0413-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 25A-0075E

IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO FOR APPROVAL TO RECOVER COSTS ASSOCIATED WITH JOINING THE SOUTHWEST POWER POOL MARKETS+ MARKET THROUGH THE ELECTRIC COMMODITY ADJUSTMENT.

**INTERIM COMMISSION DECISION DENYING
MOTION TO STRIKE CROSS-ANSWER TESTIMONIES**

Issued Date: May 30, 2025

Adopted Date: May 21, 2025

I. BY THE COMMISSION

A. Statement

1. On February 14, 2025, Public Service Company of Colorado (“Public Service” or the “Company”) filed an Application (“Application”) requesting a determination that it is in the public interest for Public Service to participate in Southwest Power Pool’s (“SPP”) regional, day-ahead and real-time energy and flexibility reserve product market in the Western Interconnection, called Markets+ (“Markets+” or “SPP Markets+”), and requesting recovery of costs associated with Markets+ participation through the Electric Commodity Adjustment (“ECA”).

2. Through this Decision, the Commission denies the Motion to Strike Cross-Answer Testimonies (“Motion to Strike”) filed by Public Service on May 19, 2025.

B. Motion to Strike

3. On May 16, 2025, the Colorado Energy Office (“CEO”) and Advanced Energy United (“AEU”) each filed cross-answer testimony. On May 19, 2025, Public Service filed its Motion to Strike the cross-answer testimonies of CEO and AEU.

4. In the Motion to Strike, Public Service argues the purpose of cross-answer testimony is for intervenors who disagree with one another’s testimony to have an opportunity to file testimony adverse to the positions of the intervenor witnesses with whom they disagree. The Company argues that this purpose was set forth in Decision No. C25-0318-I, a procedural order in this Proceeding.¹ Attachment B to Decision No. C25-0318-I states that the Commission typically allows for written cross-answer testimony, and which indicates this type of testimony is “by interveners, responding only to other interveners’ answer testimony.” The Company explains this purpose is also set forth in past decisions of the Commission, specifically in Decision Nos. C05-0430 and C07-0095.²

5. Public Service states that the cross-answer testimony filed by AEU and CEO should be stricken because it violates Decision No. C25-0318-I by only agreeing with and supporting the answer testimonies filed by other intervenors. Additionally, the Company argues CEO’s testimony is improper late-filed answer testimony, and that AEU’s cross-answer testimony also bolsters its own answer testimony. Public Service claims it is prejudiced by having to address the cross-answer testimony, thereby reducing the already close timeframes

¹ Decision No. C25-0318-I, Attachment B (issued April 24, 2025).

² Decision No. C05-0430 in Proceeding Nos. 04A-411T and 04D-440T (issued April 11, 2005); Decision No. C07-0095 in Docket No. 06A-478E (issued February 1, 2007). Although these Decisions are not currently available through the Commission’s E-Filing website due to ongoing technical updates to the E-Filing system, the Decisions are available on Westlaw and were reviewed by the Commission.

the Company has to prepare for hearing. Public Service asks that response time to its motion be limited to two business days.

6. The Commission is not strictly bound by the technical rules of evidence, § 40-6-101(4), C.R.S., and is not bound by its prior decisions as “precedent” or by any doctrine similar to *stare decisis*. While we recognize the close timeframes in this Proceeding and that parties should follow the procedural schedule’s deadlines to ensure efficient resolution of the Proceeding, we do not find that the cross-answer testimonies of CEO and AEU should be struck. The testimonies have probative value in this case, and the Commission is well-equipped to consider any claims of prejudice or objections to the testimonies when weighing the evidence presented. Therefore, we deny Public Service’s Motion to Strike and waive remaining response time.

II. ORDER

A. It Is Ordered That:

1. The Motion to Strike Cross-Answer Testimonies (“Motion to Strike”) filed by Public Service Company of Colorado on May 19, 2025, is denied.

2. Remaining response time to the Motion to Strike is waived.

3. This Decision is effective upon its Issued Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
May 21, 2025.**

(S E A L)



ATTEST: A TRUE COPY

Rebecca E. White,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ERIC BLANK

MEGAN M. GILMAN

TOM PLANT

Commissioners