

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.

**INTERIM DECISION WAIVING REMAINING RESPONSE
TIME AND GRANTING UNOPPOSED REQUEST FOR
LATE INTERVENTION**

Issued Date: October 11, 2024
Adopted Date: October 9, 2024

I. BY THE COMMISSION

A. Statement, Findings, and Conclusions

1. On September 6, 2024, Public Service Company of Colorado (“Public Service” or the “Company”) filed its Clean Energy Plan (“CEP”) Delivery Motion (“CEP Delivery Motion”), which proposes a series of steps for projects selected for inclusion in the Company’s approved 2021 Electric Resource Plan (“ERP”) and CEP to seek flexibility from bid prices due to national geopolitical and market forces.¹ Through Decision Nos. C24-0678-I and C24-0699-I, issued September 19 and 26, 2024, respectively, the Commission set procedural deadlines regarding the CEP Delivery Motion, scheduling a hearing for November 7 and 8, 2024. In addition, the Commission raised concerns and sought input from parties and stakeholders, including with regard to thermal resources and proposed alternative pathways to price flexibility.

¹ CEP Delivery Motion at 3-4. Limited procedural history is provided in this order. For full procedural history and discussion, please review prior Commission decisions throughout this Proceeding that consider the Company’s CEP and ERP filings initiated in 2021.

2. On October 3, 2024, Mainspring Energy, Inc (“Mainspring”), filed an unopposed motion to intervene out of time in this Proceeding (“Late Intervention”). Mainspring represents in its Late Intervention that it is developing and supplying its linear generator product associated with Bid No. 0011 – a 50-megawatt (“MW”) new-build thermal generator unit in the San Luis Valley. Bid No. 0011 is a build-transfer project, and Mainspring represents that it has been working collaboratively with the Company on the project and product diligence, equipment procurement, and negotiating the build-transfer agreement over the past several months. Mainstream further includes that the project is a Section 123-eligible resource,² but that it was selected in the portfolio selected by the Commission in its final Phase II orders in this matter on economic grounds.

3. While recognizing that the intervention deadline has long past, Mainspring argues in its Late Intervention that its inclusion as a party is appropriate for the purpose of weighing in on one issue of very narrow scope in these unique circumstances. Mainspring states that when this Proceeding was opened, the request for proposal issued, and when the project was included at the time of the Phase II Decision, it had every reason to believe the Proceeding would follow a typical ERP process and that its individual participation would not be necessary. However, it claims that the CEP Delivery Motion and alternative pathway raised for comment could directly and substantially impact Mainspring’s interests in unforeseen ways. Mainspring includes that the project is not a typical thermal resource, because it is a Section 123 resource that will be able to provide reliable, scalable, and clean firm generation for Colorado. Mainspring seeks late intervention to ensure that this distinction regarding the project is understood by the Commission as it considers resolution of the CEP Delivery Motion.

² § 40-2-123(1)(a), C.R.S.; Proceeding No. 21A-0141E, Decision No. C14-0052 at ¶ 240 (January 23, 2024).

4. The Late Intervention continues to include information regarding Mainsprings pecuniary and tangible interests in the remainder of this Proceeding with regard to final determinations on the CEP Delivery Motion, and that no other current party can represent its interests.

5. Mainspring further represents that it conferred with parties to this Proceeding and that parties either do not oppose, or take no position to its Late Intervention, with the exception of Rocky Mountain Environmental Labor Coalition & the Building and Construction Trade Counsel, AFL-CIO (“RMELC”) International Brotherhood of Electrical Workers, Local 111 (“IBEW”) that did not respond by the date the Late Intervention was filed. No further responses to the Late Intervention have been received by the Commission.

6. Under Commission Rule 1401(c), 4 *Code of Colorado Regulations* 723-1, the Commission has discretion in granting permissive intervention where the prospective intervenor: (1) identifies the specific interest that justifies intervention; (2) demonstrates that the intervenor will represent that interest in the proceeding; (3) explains how the proceeding will substantially impact its pecuniary or tangible interests; and (4) explains why its interests are not adequately represented by other parties. The Commission may, for good cause shown, allow late intervention subject to reasonable procedural requirements.

7. Mainsprings has demonstrated sufficiently its interests in this proceeding with regard to consideration of the CEP Delivery Motion. Further, we note that, not only is the filing unopposed, but that Mainsprings filed its request mere days after the Commission’s scheduling orders in this matter, and in advance the Company’s supplemental filings received on October 4, 2024, and of party response deadlines scheduled for October 11, 2024.

8. We therefore find that Mainsprings has shown good cause for us to waive remaining response time to the filing and grant its Late Intervention. Particularly where the filing was received prior to remaining filing deadlines, no party will be prejudiced as a result of granting Mainspring's Late Intervention.

II. ORDER

A. The Commission Orders That:

1. The Unopposed Motion to Intervene Out of Time and Request for Waiver of Response Time filed October 3, 2024, by Mainspring Energy, Inc., is granted, consistent with the discussion above.

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

B. **ADOPTED IN COMMISSIONERS' WEEKLY MEETING October 9, 2024.**

(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