

Decision No. C25-0261-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 24A-0547E

IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO FOR APPROVAL OF ITS 2025-2029 DISTRIBUTION SYSTEM PLAN AND THE GRID MODERNIZATION ADJUSTMENT CLAUSE.

PROCEEDING NO. 25A-0061E

IN THE MATTER OF THE APPLICATION FOR APPROVAL OF PUBLIC SERVICE COMPANY OF COLORADO'S AGGREGATOR VIRTUAL POWER PLANT PROGRAM AND TARIFF, ALONG WITH ASSOCIATED PROGRAM BUDGET AND COST RECOVERY METHODOLOGY.

**INTERIM COMMISSION DECISION ESTABLISHING
PROCEDURAL SCHEDULE; SCHEDULING
EVIDENTIARY HEARING; ADOPTING PROCEDURES
FOR EXHIBITS; ADDRESSING DISCOVERY
PROVISIONS; AND CONSOLIDATING PROCEEDINGS**

Issued Date: April 8, 2025
Adopted Date: March 26, 2025

I. BY THE COMMISSION

A. Statement

1. By this Decision, the Commission addresses several procedural matters for this Proceeding. The Commission sets a hearing schedule and discovery parameters for the Application for Approval of an Aggregated Virtual Power Plant (“AVPP”) (“Application”) filed by Public Service Company of Colorado (“Public Service” or the “Company”) on January 31, 2025.

2. We also schedule a nine-day remote evidentiary hearing *en banc* for the days of August 25-29, 2025, and September 2-5, 2025. We also extend the timeline for a decision

under § 40-6-109.5(1), C.R.S. In Attachment A to this Decision, the Commission provides instruction for how the remote evidentiary hearing will be conducted. Relatedly, in Attachment B to this Decision, the Commission sets forth procedures for the electronic submission of exhibits.

3. We also consolidate this Proceeding with Proceeding No. 24A-0547E (the “DSP Proceeding”) pursuant to Rule 1402 of the Commission's Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (“CCR”) 723-1.

B. Background

4. Public Service filed its Application pursuant to § 40-2-132.5, C.R.S., which requires Public Service to file by February 1, 2025, an Application to Implement a Virtual Power Plant (“VPP”) program, including a tariff for performance-based compensation for a qualified VPP. The Company is required, among other things, to consider the role that VPPs can play in modeling and meeting system needs in the resource planning process and eligibility requirements for distributed energy resource (“DER”) aggregators and technologies. The Company must also establish requirements for DER aggregators including communication, dispatch, measurement and verification, and settlement of performance-based compensation. Public Service may set a cap for individual resource capacity and minimum aggregation capacity for participation in the VPP program. Concurrent with its Application, the Company filed a Motion for Extraordinary Protection.

5. Through Decision No. C25-0155-I, the Commission deemed the Application complete and granted the requests for permissive intervention filed by Colorado Energy Consumers Group (“CEC”); Pivot Energy Inc. (“Pivot”); the City of Boulder (“Boulder”); Western Resource Advocates (“WRA”); Advanced Energy United (“AEU”); the Colorado Solar and Storage Association (“COSSA”), the Solar Energy Industries Association

(“SEIA”), the Coalition for Community Solar Access (“CCSA”) (jointly “COSSA/SEIA/CCSA”); Colorado Renewable Energy Society (“CRES”); Mr. William Althouse; and Solar United Neighbors (“SUN”) and acknowledged the notices of intervention of right filed by Trial Staff of the Commission (“Staff”), the Office of the Utility Consumer Advocate (“UCA”), and the Colorado Energy Office (“CEO”).

6. By Decision No. C25-0085-I, issued in Proceeding No. 25A-0061E, the Commission noted the Company’s AVPP Application may have overlapping factors and interrelated impacts with its DSP proceeding and requested comment from potential parties to the AVPP Proceeding regarding the potential advantages and disadvantages to combining the AVPP and DSP proceedings, or other logistical suggestions they may have.

7. Decision No. C25-0155-I also directed Public Service to file a proposed consolidated procedural schedule no later than March 14, 2025, that also addresses the Company’s DSP Application filed by Public Service on December 16, 2024.

8. On March 14, 2025, the Commission received the Conferral Report from Public Service in this Proceeding as well as in the DSP Proceeding.

C. Discussion, Findings, and Conclusions

1. Consolidation

a. Party Positions

9. In Decision No. C25-0085-I, the Commission solicited feedback from Public Service and potential intervenors in the AVPP Proceeding regarding their perspective on the potential consolidation of that proceeding and the Company’s DSP Application.

10. In Proceeding No. 25A-0061E, the Commission received a range of responses regarding potential consolidation of the AVPP and DSP proceedings. Public Service stated it does

not oppose consolidation provided that doing so does not delay or otherwise extend the time for resolution of the plan application. Staff took no position on consolidation, and several AVPP parties, including CEO, WRA, Boulder and CEC which are also DSP parties, support consolidation. CEO stated that consolidating the proceedings will make it easier for parties and the Commission to compare the costs and benefits of aggregated VPPs to distribution system investments and that, because both proceedings depend on similar inputs and information, combining the proceedings will increase efficiency and reduce duplication in discovery questions, testimony, and hearing topics. WRA noted that if the Commission consolidates the proceedings, it should take procedural steps to ensure that parties with a discrete interest in the AVPP Application are not prejudiced by the breadth of all issues present in the DSP Application.

11. UCA, COSSA/SEIA/CCSA, and AEU, each being parties to the DSP Proceeding, oppose consolidation of the AVPP and DSP applications. UCA stated it has concerns that the AVPP, which is a smaller proceeding that contains discrete issues related to developing the aggregation of distributed resources which are not present in the DSP, will be overshadowed in the larger DSP Application. COSSA/SEIA/CCSA (part of the Associations for Clean Energy intervenor in this Proceeding) stated it does not believe combining the proceedings will be efficient because the AVPP Proceeding is a case of first impression that requires the resolution of highly technical questions about program structure, eligibility, payments and terms and conditions. COSSA/SEIA/CCSA explained that, similarly to UCA, it is concerned that important programmatic details will get lost in the administrative record of the larger DSP. AEU (part of the Associations for Clean Energy intervenor in this Proceeding) emphasized the need for VPP implementation to move quickly and argues that the technical nature of the AVPP, combined with the numerous issues and decision points in the DSP, may slow down settlement or resolution of

the AVPP. If the Commission does consolidate the AVPP and the DSP, AEU asserts the Commission should put in place procedural safeguards to ensure that consideration of the AVPP is not unduly complicated or delayed. To that end, AEU suggests the Commission consider the VPP on a separate “track” from the rest of the DSP issues to allow for separate settlement discussions. It also requests the Commission provide sufficient hearing days and number of pages in Statements of Position for parties to fully address issues arising from the AVPP Application, in addition to the DSP.

12. In Decision No. C25-0154-I, the Commission solicited feedback from the parties to the DSP Proceeding regarding potential consolidation with the Company’s AVPP Application. By Decision No. C25-0155-I, the Commission also gave parties to the AVPP Application an additional opportunity to provide comments on consolidation. The Commission received responsive filings from UCA, ACE, Solar United Neighbors (“SUN”), SWEEP/NRDC, and CEO.

13. UCA acknowledged the issues present in the DSP and AVPP proceedings clearly overlapped, but reiterated its opposition to consolidation and expressed concern that consolidating the proceedings could result in overly expanding the Proceeding’s hearing length. UCA also emphasized the nascent nature of AVPP issues and asserted these issues would be better addressed in a separate proceeding. ACE similarly opposes consolidation. ACE also acknowledges the overlap between the proceedings but asserts the technical considerations embedded in the AVPP Application warrant consideration in a separate proceeding to satisfy ACE’s due process concerns regarding sufficient time and attention to address the important issues in the proceeding. ACE asserts consolidating the AVPP and DSP will not advance the Commission’s efficiency goals because the issues inherent to the AVPP are not likely to be inter-dependent on the issues in the DSP and there is no dynamic interaction between DSP issues and the AVPP program.

However, ACE states that if the Commission does consolidate the proceedings, it must adopt a procedural schedule that provides sufficient due process for all issues being decided.

14. SUN, a party to the AVPP, but not the DSP, also opposes consolidation and requests the AVPP proceeding proceed separately from the DSP proceeding. Like UCA and ACE, SUN emphasizes the AVPP Application includes numerous technical issues of first impression including design and establishment of a new AVPP program. SUN states it shares ACE's concerns regarding consolidation and maintains that consolidation of the proceedings creates substantial risk that AVPP program design issues and related matters will not receive sufficient attention. In the event the Commission consolidates the proceedings, SUN states it supports ACE's comments regarding procedural safeguards.

15. SWEEP/NRDC, a party to the DSP but not the AVPP proceeding, support consolidation of the two proceedings. SWEEP/NRDC assert consolidation would allow the Commission to take a more holistic view of the relevant issues which would result in a better-informed decision than considering each proceeding in isolation. SWEEP/NRDC further assert consolidation could allow the Commission to determine how an approved AVPP program may affect and potentially reduce the need for some of Public Service's proposed DSP investments thereby decreasing costs of the DSP plan and potentially saving customers' money. Finally, SWEEP/NRDC emphasizes consolidating the proceedings will provide an opportunity to save resources for both the Commission and the parties, given the significant overlap and timing of these proceedings.

16. CEO, a party to both the AVPP and DSP proceedings, reiterated its recommendation that the Commission consolidate the proceedings. CEO contends combining the two proceedings will make it easier for parties and the Commission to compare the costs and

benefits of VPPs to distribution system investments. CEO also notes because both proceedings depend on similar inputs and information, combining the proceedings will increase efficiency and reduce duplication in discovery questions, testimony, and hearing topics.

17. In Decision No. C25-0154-I, the Commission prompted parties on the appropriate proceeding in which to hear the Company's DDG proposals related to SB 24-207. In particular, the Commission asked parties whether a single solicitation (conducted as part of the JTS or DSP) can reasonably facilitate the Company's obligations under SB 24-207.

18. The Company explains that it does not believe consolidation of DDG with the AVPP proceeding would be appropriate as the two programs are on relatively different size scales. Per the DDG-related statute, the Company is required to procure at least 50 MW per year in summer of 2026 and 2027. Per the AVPP program, individual DERs must be 500 kw or less, and aggregated by qualified resource aggregators.

19. Pivot suggests the DSP is the best venue for effectuation of the DDG and AVPP programs as the animating purposes of the DSP is "diversification of energy supply through distributed energy" and "expanding the utilization of non-wire alternatives that may reduce the need for conventional distribution grid investment."

20. Despite opposing consolidation of the DSP and AVPP proceedings, ACE supports DSP and DDG consolidation. ACE suggests the DSP proceeding represents the "optimal opportunity" for the Commission to implement the DDG requirements of SB 24-207 and realize the full potential of DDG resources.

b. Findings and Conclusions

21. We find good cause to consolidate Proceeding Nos. 24A-0547E and 25A-0061E pursuant to 4 CCR 723-1-1402. Rule 1402 governs and establishes the standard for granting

consolidation. In relevant part, that Rule states: “The Commission may ... consolidate proceedings where the issues are substantially similar and the rights of the parties will not be prejudiced.” Whether to consolidate proceedings lies in the Commission's sound discretion. We find that the issues in the proceedings are substantially similar. Consolidation will give the Commission the ability to address the issues in both proceedings holistically and will afford the Commission the opportunity to effectively analyze the interrelationship between the Company’s DSP capital expenditures and its AVPP program. Consolidation could thereby give the Commission the opportunity to mitigate certain costs presented in the Company’s DSP. We also find consolidation will not prejudice parties in the two proceedings. Further, we find that consolidation will result in significant litigation and administrative efficiencies and will conserve the resources of the Commission and parties to the proceedings. Finally, consolidation also eliminates confusion about the proceeding in which a particular issue will be addressed.

22. Proceeding Nos. 24A-0547E and 25A-0061E are consolidated. Proceeding No. 24A-0547E will serve as the primary proceeding and all filings should be made in that docket. Each filing should include both captions with Proceeding No. 24A-0547E appearing first as it appears in this Decision.¹

23. With respect to DDG, the Commission recognizes that DDG resources have not been formally procured before and that such resources have somewhat overlapping attributes with other categories of resources. We also note that the Company is expected to bring forward its DDG proposal, via a separate application, in the near future. Finally, only three parties responded to the Commission’s prompt; the large majority of parties to the DSP and AVPP proceedings have not

¹ For clarity, we have included in both orders all procedural issues decided at the 3/26 CWM. Decision Nos. C25-0260-I and C25-0261-I provide duplicate procedural guidance for the consolidated proceeding moving forward. The Commission anticipates future orders will be issued in the consolidated proceeding only.

been heard from on this issue and may offer a unique perspective. At this juncture, the Commission finds it appropriate to further assess the potential opportunity for further consolidation in the near future, but we decline to take any specific action until more information comes to light. We remain open to further party comment on this issue and plan to assess the DDG proposal when Public Service files it.

2. Procedural Schedule and Discovery Parameters

24. On March 14, 2025, the Company filed a Conferral Report that was a result of conferral with both the DSP and AVPP parties. The Company indicated that all of the parties expressed support or are in agreement with the proposal except for: IREC (DSP), ACE (DSP and AVPP), AEU (DSP and AVPP),² Pivot (AVPP and DSP), and SUN (AVPP). In the Conferral Report, the Company stated that it “believes both the DSP and AVPP cases can proceed efficiently under a single procedural schedule in the event the Commission decides to consolidate the two proceedings, and to the extent necessary, the parties can work together to achieve efficiencies for AVPP parties when determining witness order at the hearing.”

25. ACE and AEU developed a counterproposal reflecting a merged case with the same deadlines but separate evidentiary hearings, with the AVPP evidentiary hearing taking place from August 25- 27, 2025 and the DSP hearing taking place August 28-29 and September 2-5, 2025. ACE and AEU further proposed that the Commission require that AVPP issues be addressed through distinct witness testimony to prevent AVPP-related issues from getting lost in the breadth of the DSP. SUN and Pivot Energy expressed agreement with the position of ACE and AEU. However, the Company indicate that it is opposed to separate evidentiary hearings because separate evidentiary hearings and separate sets of witness testimonies do not promote regulatory

² In the DSP proceeding, AEU is part of ACE.

efficiency, and would likely result in increased case expenses, potential duplication of efforts, confusion, and other inefficiencies for the Commission, the Company, and the parties to both cases.

26. We find that the Conferral Report submitted by Public Service and supported by most parties sets forth a reasonable schedule for this Proceeding.

27. The Commission adopts the following procedural schedule:

Deadline/Action	Date
Supplemental Direct Testimony (<i>discussed in Decision No. C25-0260-I</i>)	May 19, 2025
Answer Testimony	June 26, 2025
Rebuttal & Cross-Answer Testimony	July 30, 2025
Stipulations and Settlement Agreements	August 11, 2025
Settlement Testimony	August 11, 2025
Cross Examination Matrix	August 19, 2025
Pre-Hearing Motions	August 20, 2025
Corrections/Cross-Matrix/Witness List	August 18, 2025
Remote <i>En Banc</i> Evidentiary Hearing	August 25-29, and September 2-5, 2025
Statements of Position	September 26, 2025
250-day deadline	November 3, 2025

28. In order to accommodate the above procedural schedule, we find the additional time permitted in § 40-6-109.5(1), C.R.S., is required in this Proceeding. We therefore extend the decision deadline in the Proceeding by the permitted 130 days allowed by statute.

29. In its Conferral Report, the Company submits that the ordinary rules governing discovery should apply to this Proceeding, and that all parties either agree or take no position on the Company's proposal regarding discovery. In the Public Service Comments and Updated Conferral Report filed on March 24, 2025, the Company indicated that to further accommodate the timing of the supplemental filings on May 19, 2025, the Company has agreed to a

7-business-day discovery timeline that would only apply to discovery directed solely at the Supplemental Analysis filed on May 19, 2025.

30. We confirm the discovery processes proposed by the Company, consistent with Commission rules.

31. At a future date closer to the evidentiary hearing, the Commission will consider and provide additional guidance on hearing processes to ensure that the AVPP issues receive appropriate focus.

3. Hearing Procedures and Instructions Concerning Exhibits

32. The Commission schedules a nine-day fully remote *en banc* evidentiary hearing for the days of August 25-29, 2025 and September 2-5, 2025.

33. The evidentiary hearing will be conducted via video-conference using the Zoom platform. Attachment A to this Decision provides information about the Zoom platform and how to use Zoom to participate in the remote hearing. To minimize the potential that the hybrid 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 by email before the hearing, and the parties and witnesses will be prohibited from distributing that information to anyone not participating in the hearing.

34. Exhibits must be presented electronically at the evidentiary hearing. Attachment B to this Decision outlines the procedures and requirements for marking and formatting exhibits aimed at facilitating efficient and smooth electronic evidence presentations at the remote hearing. It is extremely important that the parties carefully review and follow all requirements in Attachment B.

35. Hearing exhibits shall be marked numerically and sequentially for identification by the filing parties within their respective blocks of numbers. In order to efficiently organize the

numbering and preparation of exhibits for the hearing, all parties shall use a unified numbering system for all hearing exhibits. Parties should not duplicate hearing exhibits or attachments previously filed by another party.

36. The party initiating the proceeding is assigned hearing exhibit numbers 100 to 299.

37. Each intervening person or entity is assigned a block of 100 hearing exhibit numbers (*e.g.*, 300-399, 400-499, etc.) assigned as outlined in the chart below. Due to the breadth and scope of the Proceeding, we assign from the outset two hearing exhibit blocks to the Company. We note that those intervenors filing as a coalition (*i.e.*, ACE) in the DSP proceeding and in the AVPP proceeding are provided one exhibit number block for the coalition and the individual members are provided a separate block for the express purpose of providing AVPP answer testimony to the individual coalition members. Parties are encouraged to confer as needed.

38. Hearing Exhibit Number Block Assignments:

Party	Hearing Exhibit Number Block
Public Service	100-299
CEC	300-399
CEO	400-499
Staff	500-599
UCA	600-699
Denver	700-799
IREC	800-899
ACE (COSSA/SEIA, CCSA, AEU, collectively)	900-999
Pivot	1000-1099
Boulder	1100-1199
Eastern Metro Business Area Coalition	1200-1299
Holy Cross	1300-1399
SWEEP/NRDC	1400-1499
Mission:Data	1500-1599
Tesla	1600-1699
WRA	1700-1799
William Althouse	1800-1899
Colorado Renewable Energy Society	1900-1999
Solar United Neighbors	2000-2099
Advanced Energy United (for independent AVPP issues-related testimony if necessary)	2100-2199
COSSA/SEIA, CCSA (for independent AVPP issues-related testimony if necessary)	2200-2299

II. ORDER**A. It Is Ordered That:**

1. Consistent with the discussion above, Proceeding Nos. 24A-0547E and 25A-0061E are consolidated for all purposes. Proceeding No. 24A-0547E shall serve as the primary proceeding and all subsequent filings shall be made in that docket and its caption shall appear first.

2. The parties in each proceeding shall be parties in the consolidated proceeding.

3. All proceeding numbers and captions in the consolidated proceeding shall be listed on all future filings as shown above on this Decision.

4. The proposal included in the Procedural Schedule filing made in Compliance with Decision No. C25-0154-I and Decision No. C25-0155-I by Public Service Company of Colorado, is adopted, with the modifications set forth in the discussion above.

5. A remote *en banc* evidentiary hearing is scheduled as follows:

DATE: August 25-29, 2025 and September 2-5, 2025

TIME: 9:00 a.m. until 5:00 p.m. on August 25, 26, 28, 29 and
September 2, 4, 5, 2025; 1:00 p.m. until 5:00 p.m. on
August 27, 2025 and September 3, 2025

WEBCAST: Commission Hearing Room A

METHOD: Join by videoconference using Zoom at the link to be provided to parties by e-mail from Commission staff.

6. The decision deadline in this Proceeding is extended by the additional 130 days pursuant to § 40-6-109.5(1), C.R.S.

7. All participants must comply with the requirements in Attachments A and B to this Decision, which are incorporated into this Decision.

8. The rules governing discovery at 4 *Code of Colorado Regulations* (“CCR”) 723-1-1405(b) and (d) shall apply, with the one modification discussed above regarding the discovery timeline for the May 19, 2025 filing.

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

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
March 26, 2025.**

(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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MEGAN M. GILMAN

TOM PLANT

Commissioners