

Decision No. C24-0569

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 24A-0569

IN THE MATTER OF APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO
FOR APPROVAL OF THE SALE OF STREET LIGHTING FACILITIES TO THE CITY OF
BOULDER.

**COMMISSION DECISION DEEMING APPLICATION
COMPLETE, GRANTING APPLICATION, AND
GRANTING MOTION FOR EXTRAORDINARY
PROTECTION**

Issued Date: August 7, 2024
Adopted Date: July 31, 2024

I. BY THE COMMISSION

A. Statement

1. On June 25, 2024, Public Service Company of Colorado (“Public Service” or “the Company”) filed its Application for approval of the Purchase and Sale Agreement between Public Service and the City of Boulder, Colorado (“Application”) for the sale of all street lighting facilities and appurtenant equipment owned by Public Service within the Boulder city limits.

2. Concurrent with its Application, Public Service filed a Motion for Extraordinary Protection (“Motion”) seeking extraordinary protection for highly confidential and competitive information that the Company included as part of its Application.

3. Through this Decision, we deem the Application complete, grant the Application, and grant the Motion, as discussed below.

B. Discussion and Findings

4. In its Application, pursuant to § 40-5-105(1), C.R.S., and Rule 1303 of the Commission's Rules of Practice and Procedure, 4 *Code of Colorado Regulations* ("CCR") 723-1, and Rules 3002(a)(V) and 3104 of the Commission's Rules Regulating Electric Utilities, 4 CCR 723-3, Public Service seeks Commission approval of the Purchase and Sale Agreement ("PSA") between Public Service and Boulder for the sale of all street lighting facilities and appurtenant equipment owned by Public Service located within the Boulder city limits as set forth in the PSA. In support of the Application, Public Service filed direct testimony and exhibits of Jennifer L. Baker and Allison M. Johnson.

5. Public Service states that the assets included in the PSA constitute all of Public Service's street lighting facilities in Boulder. No Company distribution poles, distribution lines, or other equipment are included in the sale.

6. Through its filings, Public Service accounts for street lighting facilities under the group method, stating it is not practical to track these street lighting facility assets on an individual basis. Lighting facility assets are recorded by vintage and, therefore, the Company explains that each individual streetlight is not specifically identified within Public Service's records. All assets in the group are depreciated over their average life using the depreciation rates approved by the Commission.

7. Public Service states that on March 30, 2024, it entered into the PSA with Boulder for the sale and transfer of the street lighting facilities for an agreed upon price of \$3,202,771.46. The negotiated price was based on the net book value of the street lighting facilities and eighteen months of related operations and maintenance costs. No gain will be recorded on the sale in

accordance with the Federal Energy Regulatory Commission Uniform System of Accounts plant instructions because the sale is not considered to be for a whole unit or operating system. Public Service proposes that the sale of assets will be accounted for as a plant retirement, with the sales proceeds recorded as salvage to the overall street lighting mass asset accumulated reserve account, and thus an overall reduction in the net plant balance for street lighting assets.

8. The Commission provided notice of the Application to all interested parties on June 26, 2024. No petition to intervene or otherwise participate in this Proceeding was filed. Because no other party intervened in this Proceeding, it is uncontested and therefore, pursuant to § 40-6-109(5) C.R.S., and Rule 1403, 4 CCR 723-1, this matter may be determined without a hearing.

9. The Commission reviewed the testimony and exhibits provided by the Company and being fully advised in the matter finds good cause to grant the Application. The Commission approves the sale of all street lighting facilities and appurtenant equipment owned by Public Service located within the Boulder city limits as set forth in the PSA.¹

C. Motion for Extraordinary Protection

10. Public Service requests extraordinary protection for certain claimed highly confidential information that can be used to deduce the per light pricing agreed to between Public Service and Boulder for the sale by Public Service of all of its street lighting. This information includes: (1) the number of street lights being sold under the PSA and between Public Service and Boulder; (2) distribution pole points of delivery and equipment lists that can be used to deduce the

¹ We recognize that while this solution is workable for the City of Boulder, it may not be feasible for all local governments in the state. The issue remains that some local governments which would like to modify or enhance their street lighting system (*e.g.*, with more efficient light emitting diode lighting) are unable to do so due to the high purchase cost.

number of street lights being sold under the PSA; and (3) the conversion cost estimate provided for the PSA.

11. Public Service asserts this information is a trade secret and competitive information that can negatively impact future street light sales that the Company is currently negotiating.

12. To support its request, Public Service asserts it is necessary to keep this information confidential because disclosure could impact negotiations with other municipal entities that the Company expects to enter into or already has begun negotiations with. The Company states that disclosure would negatively impact the Company's negotiating position.

13. Public Service requests parties' access to these redacted highly confidential invoices be restricted to only the Commissioners, Commissioner advisors and advisory counsel, administrative law judges, Commission Trial Staff, and the Office of the Utility Consumer Advocate.

14. When presented with a motion for extraordinary protection claiming highly confidential information, the Commission determines whether the information is, in fact, highly confidential, the level of extraordinary protection that may be warranted, and to whom access should be granted.

15. The operative language in Rule 1101(b)(IV), 4 CCR 723-1, which concerns motions requesting highly confidential protection, requires that the motion:

shall include a showing that the information for which highly confidential protection is sought is highly confidential; that the protection afforded by the Commission's rules for furnishing confidential information provides insufficient protection for the highly confidential information; and that, if adopted, the highly confidential protections proposed by the movant will afford sufficient protection for the highly confidential information

16. We find the reasoning and arguments in the Motion persuasive. The Motion states good cause to grant the relief sought under Rule 1101. The Commission further finds the requested protections are appropriate, reasonable, and consistent with the Commission's Rules and past practice.

17. Based on the foregoing, we grant the Motion and approve the non-disclosure agreements. Access to the highly confidential information shall be limited as requested.

II. ORDER

A. The Commission Orders That:

1. The Application for approval of the Purchase and Sale Agreement between Public Service and the City of Boulder, Colorado, for the sale of all street lighting facilities and appurtenant equipment owned by Public Service within the Boulder city limits filed on June 25, 2024, by Public Service Company of Colorado ("Public Service") is deemed complete, for purposes of § 40-6-109.5, C.R.S., and is granted.

2. The Motion for Extraordinary Protection of Highly Confidential Information, filed by Public Service on June 25, 2024, is granted, consistent with the discussion above.

3. The 20-day period provided for in § 40-6-114, C.R.S., within which to file an Applications for Rehearing, Reargument, or Reconsideration, begins on the first day following the effective date of this Decision.

4. This Decision is effective on its Issued Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
July 31, 2024.**

(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

ERIC BLANK

MEGAN M. GILMAN

TOM PLANT

Commissioners