

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 24A-0380EG

IN THE MATTER OF THE VERIFIED APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO FOR APPROVAL OF DEFERRED ACCOUNTING TREATMENT FOR COSTS ASSOCIATED WITH CHANGES IN PREMIUMS FOR EXCESS LIABILITY INSURANCE AND REQUEST FOR EXPEDITED TREATMENT.

**INTERIM COMMISSION DECISION GRANTING
FIRST MOTION FOR EXTRAORDINARY PROTECTION,
WAIVING RESPONSE TIME, AND REFERRING
MOTIONS FOR EXTRAORDINARY PROTECTION AND
DISCOVERY DISPUTES TO AN ADMINISTRATIVE LAW
JUDGE**

Issued Date: October 24, 2024

Adopted Date: October 16, 2024

I. BY THE COMMISSION

A. Statement

1. By this Decision, the Commission grants the Unopposed First Motion for a Protective Order Affording Extraordinary Protection for Highly Confidential Information, filed by Public Service Company of Colorado (“Public Service” or the “Company”) on October 9, 2024 (“Motion”). Through the Motion, Public Service requests extraordinary protection for certain information concerning commercially sensitive and trade secret information on Xcel Energy’s layered insurance structure to provide its overall insurance needs with various insurers. Public Service represents the Motion is unopposed. Since the Motion is unopposed, we find good cause to waive any remaining response time. Upon review of the Motion and its attachments, the Commission finds good cause to grant the requested relief.

B. Discussion

2. On September 5, 2024, Public Service filed an Application for Approval of Deferred Accounting Treatment for Costs Associated with Changes in Premiums for Excess Liability Insurance (“Application”) in which it seeks to create a regulatory asset to track and defer above or below what is included in base rates for excess liability insurance premiums. By Decision No. C24-0719-I, issued October 4, 2024, we deemed the Application complete, established parties to the Proceeding, granted Public Service’s motion for expedited procedures, established a procedural schedule, scheduled a remote *en banc* evidentiary hearing, and established procedures for the evidentiary hearing.

3. In the Motion, Public Service asserts that public disclosure of the commercially sensitive and trade secret information on Xcel Energy’s layered insurance – which Public Service refers to as the “insurance tower” – will show its specific negotiated coverages with insurers and that Xcel could thereby be harmed if the insurance tower became known to competitors, potential counterparties, or potential insurance providers. Specifically, the Company highlights its concern that disclosure could disadvantage Xcel’s negotiating position for future insurance and could jeopardize its relationship with insurers.

4. Public Service asserts the Commission has previously recognized that it is appropriate to protect competitively sensitive information from disclosure.

5. Public Service requests that access to the protected information be limited to the Commissioners, administrative law judges (“ALJs”), the Commission’s Advisory Staff and attorneys, Trial Staff and its attorneys, and a reasonable number of attorneys and subject matter experts representing the remaining parties to this proceeding.

6. Public Service prepared non-disclosure agreements for attorneys and subject matter experts, as required by Rule 1101(b) of the Commission's Rules of Practice and Procedure, 4 *Code of Colorado Regulations* ("CCR") 723-1. Public Service also provided the affidavit of Steven P. Berman, identifying the employees in groups with access to the highly confidential information.

7. No party filed a response opposing the relief requested in the Motion.

C. Findings and Conclusions

8. When presented with a motion for extraordinary protection of claimed 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.

9. The operative language in Rule 1101(b)(IV) of the Commission's Rules of Practice and Procedure, 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

10. We find the reasoning and arguments in the Motion persuasive. The Motion states good cause to grant the relief sought under Rule 1101, 4 CCR 723-1. The Commission further finds the requested protections are appropriate, are reasonable, and are consistent with the Commission's Rules and past practice.

11. Based on the foregoing, we grant the Motion and approve the non-disclosure agreements. For procedural efficiencies, we refer any further discovery disputes and motions for extraordinary protection regarding discovery matters to the assigned to an Administrative Law Judge.

II. ORDER

A. The Commission Orders That:

1. The Unopposed First Motion for Extraordinary Protection of Highly Confidential Information and Request for Waiver of Response Time, filed by Public Service Company of Colorado on October 9, 2024, is granted.

2. Further discovery disputes and motions for extraordinary protection regarding discovery matters are referred to an Administrative Law Judge.

3. This Decision is effective upon its Issued Date.

**A. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
October 16, 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