

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 24A-0341E

IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR THE CUSTOMER FUNDED COYOTE TRANSMISSION FACILITIES.

**COMMISSION DECISION GRANTING MOTION FOR
EXTRAORDINARY PROTECTION OF HIGHLY
CONFIDENTIAL INFORMATION AND WAIVER OF
RULE 3206(d)**

Issued Date: November 8, 2024

Adopted Date: October 23, 2024

I. BY THE COMMISSION

A. Statement

1. By this Decision, the Public Utilities Commission (“Commission” or “PUC”) grants Public Service Company of Colorado (“Public Service” or the “Company”) the relief sought through the Company’s Omnibus Motion for Extraordinary Protection of Highly Confidential Information and for Waiver of Rule 3206(d).

B. Discussion, Findings, and Conclusions

1. Motion for Extraordinary Protection

2. On August 9, 2024, Public Service filed the Motion for Extraordinary Protection, requesting extraordinary protection for detailed geographic, contractual, and technical information associated with the Company’s proposed Coyote Transmission Facilities. Public Service requests the Commission enter an order restricting access to documents and information related to the

location, operation, capacities, capabilities, and costs to construct the Coyote Transmission Facilities. Specifically, Public Service requests highly confidential treatment of the following:

- Specific geographic information where the Coyote Transmission Facilities are located and where facility loads are interconnected to the Public Service system, including information on the properties acquired for the Facilities and requisite permitting for the facilities;
- Any actual or estimated cost information (including indicative pricing estimates) derived from contracts and project agreements between Public Service and the Customers that are deemed confidential, or other information that could be used to derive cost figures in those documents, to the extent incorporated in any other documents, including testimony and attachments submitted with the Application, workpapers, and/or information provided through discovery;
- Information about technical details of the Facilities to be constructed, including technical specifications, ratings, and capacities;
- Existing and planned facility loads and operations, including the facilities anticipated to interconnect to the proposed Coyote Transmission Facilities;
- All negotiated contract terms and conditions related to the development of the Facilities; and
- Any documents or information that could be used to derive the above-described data/information.

3. Public Service requests extraordinary protection of this information because it is confidential “by virtue of the highly sensitive national defense operations they are built to serve,” and because of the confidential nature of contracts between Public Service and customers for construction of the Coyote Transmission Facilities. Public Service highlights the risk of attacks on utility transmission systems and the risk that disclosure would compromise public safety.

4. Public Service requests the Commission limit access to this information to the following entities: the Commission, its advisory staff, Commission Administrative Law Judges, members of Staff, employees of the Office of Utility Consumer Advocate (“UCA”) assigned to

this Proceeding, and the assistant attorneys general representing the Commission, its staff, and UCA in this Proceeding.

5. 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 Rule* ("CCR") 723-1. Public Service also provided the affidavit of Michael V. Pascucci, identifying the employees in groups with access to the highly confidential information and attesting that this information must remain protected as highly confidential indefinitely.

6. 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.

7. 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 ...

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

9. Based on the foregoing, we grant the unopposed Motion for Extraordinary Protection.

2. Waiver of Rule 3206(d)

10. Commission Rule 3206(d) requires Annual Reporting for planned transmission facilities to include among other things project names, location, costs, schedule, impacted transmission lines and substations, load and voltages.

11. Public Service CPCN Application for the Coyote Transmission Facilities explain the project will be paid for entirely by the Customers consistent with the Company's Transmission Line Extension Policy and requests a waiver of the Rule 3206(d) reporting requirement limited to exclude Coyote transmission facilities from its annual reporting obligations. Instead of reporting on the Coyote transmission facilities in its 3206(d) annual report, the Company proposes to notify the Commission at the time the Coyote transmission facilities are placed into service through a notice filed in this proceeding.

12. The Commission finds the reporting alternative approach to reporting on the Coyote transmission facilities is reasonable, given the highly confidential nature of the Project and details already provided in this application. Providing the Coyote Transmission Facilities information in annual Rule 3206 filings would be duplicative of the information provided in this Application.

13. Based on the foregoing, we grant the unopposed Waiver of Rule 3206(d) reporting for the Coyote Transmission Facilities.

II. ORDER**A. The Commission Orders That:**

1. The Motion for Extraordinary Protection of Highly Confidential Information and for Waiver of Rule 3206(d) filed by Public Service Company of Colorado was deemed complete by operation of law on October 23, 2024, for purposes of § 40-6-109.5, C.R.S.

2. The Motion for Extraordinary Protection of Highly Confidential Information, filed by Public Service on August 9, 2024, is granted consistent with the discussion above.

3. The Motion for Waiver of Rule 3206(d) reporting for the Coyote Transmission Facilities, filed by Public Service on August 9, 2024, is granted consistent with the discussion above.

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

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
October 23, 2024.**

(S E A L)



ATTEST: A TRUE COPY

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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MEGAN M. GILMAN

TOM PLANT

Commissioners

Rebecca E. White,
Director

