

Decision No. C21-0283

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 21AL-0091E

IN THE MATTER OF ADVICE NO. 1850-ELECTRIC FILED BY PUBLIC SERVICE COMPANY OF COLORADO TO REVISE ITS CRITICAL PEAK PRICING (“CPP”) TARIFFS AND TO IMPLEMENT A PERMANENT CPP PRODUCT.

**DECISION GRANTING MOTION
FOR EXTRAORDINARY PROTECTION**

Mailed Date: May 10, 2021
Adopted Date: April 28, 2021

I. BY THE COMMISSION

A. Statement

1. By this Decision, the Commission grants the Motion for Extraordinary Protection (Motion) filed by Public Service Company of Colorado (Public Service or the Company) on February 26, 2021.

B. Motion

2. On February 26, 2021, Public Service filed Advice Letter 1850-Electric, proposing to make its Critical Peak Pricing (CPP) pilot product permanent and proposing revisions to the CPP product.¹ In support of Advice Letter 1850-Electric, Public Service submitted the Direct Testimony of Steven Wishart (Hearing Exhibit 101), which includes billing data relating to individual customers participating in the CPP pilot in Attachment SWW-3, and the Direct Testimony of Brian Doyle (Hearing Exhibit 102), which includes usage and load information relating to individual customers participating in the CPP pilot in Attachment BGD-2.

¹ The tariffs attached to Advice Letter 1850-Electric went into effect by operation of law on April 30, 2021.

3. Under Rule 1101(b) of the Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-1, Public Service seeks extraordinary protection for customer data that is more granular than the customer data aggregation threshold provided in Rule 3033(b), 4 CCR 723-3 of the Rules Regulating Electric Utilities, and that is included in Attachments SWW-3 and BGD-2, supporting workpapers, and that may otherwise be provided through this proceeding (the Highly Confidential Information).

4. Public Service states that because the Highly Confidential Information includes billing data and usage and load information relating to individual customers, and because this data is more granular than the customer data aggregation threshold for disclosure provided in Rule 3033(b), extraordinary protection is necessary to adhere to the Commission's rules regarding data privacy and disclosure of personal information and customer data. Additionally, the Company states that the Commission has consistently granted similar requests for extraordinary protection of customer data that is not aggregated to the level required by Rule 3033(b) for disclosure.

5. Public Service requests that individuals other than the Commissioners, the Administrative Law Judge, Commission Counsel, and Commission Trial Staff (Staff) be required to execute a non-disclosure agreement, and that parties' access to the Highly Confidential Information, other than Staff and the Office of Consumer Counsel, be limited to a reasonable number of attorneys and subject matter experts. Public Service requests that the information be destroyed or returned to the Company at the conclusion of the proceeding.

6. To comply with requirements of Rule 1101(b), 4 CCR 723-1, Public Service filed proposed Non-Disclosure Agreements as Attachments A and B to its Motion. The Company provided as Attachment C an affidavit identifying all persons with access to the information and

the period of time for which the information must remain subject to highly confidential protection. Additionally, Public Service explains that it did not provide the Highly Confidential Information as an exhibit to the Motion as required by Rule 1101(b)(VII) because the Highly Confidential Information is included in Attachments SWW-3 and BGD-2 and may otherwise be provided as workpapers through discovery.

7. No party to this Proceeding filed in opposition to Public Service's request for extraordinary protection of the Highly Confidential Information.

C. Discussion

8. Rule 3033 states that a utility shall not disclose aggregated customer data unless certain requirements are met, including that, at a minimum, "a particular aggregation must contain at least fifteen customers; and, within any customer class no single customer's customer data or premise associated with a single customer's customer data may comprise 15 percent or more of the total customer data aggregated per customer class to generate the aggregated data report (the "15/15 Rule")." Rule 3303(b), 4 CCR 723-3.

9. We agree with Public Service that the customer data contained in Attachment SWW-3 to Mr. Wishart's Direct Testimony and Attachment BGD-2 to Mr. Doyle's Direct Testimony that does not meet Rule 3033(b)'s customer data aggregation threshold is extremely sensitive. We find that the information Public Service seeks to protect contains highly confidential information and should be given extraordinary protection under our rules. We therefore find good cause to grant Public Service's request for extraordinary protection.

II. ORDER

A. The Commission Orders That:

1. The Motion for Extraordinary Protection filed by Public Service Company of Colorado on February 26, 2021, is granted.

2. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
April 28, 2021.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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JOHN GAVAN

MEGAN M. GILMAN

Commissioners