

Decision No. C23-0822

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23A-0516E

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

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

Mailed Date: December 8, 2023

Adopted Date: December 6, 2023

I. BY THE COMMISSION

A. Statement

1. On October 20, 2023, Public Service Company of Colorado (Public Service or the Company) filed its application for approval of the Purchase and Sale Agreement by and between Public Service and the City of Centennial (Centennial), Colorado (Application) for the sale of all street lighting facilities and appurtenant equipment owned by Public Service within the Centennial 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 Commission Rule 1303, 4 *Code of Colorado Regulations* (CCR) 723-1 of the Rules of Practice and Procedure, and Rules 3002(a)(V), and 3104, 4 CCR 723-3 of the Rules Regulating Electric Utilities, Public Service seeks Commission approval of the Purchase and Sale Agreement (PSA) between Public Service and Centennial for the sale of all street lighting facilities, and appurtenant equipment owned by Public Service located within the Centennial city limits as set forth in the PSA. Concurrent with and 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 these assets constitute all of Public Service's street lighting facilities in Centennial. 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 June 6, 2023, it entered into the PSA with Centennial for the sale and transfer of the street lighting facilities for an agreed upon price of \$1,608,716.20. The negotiated price is based on the net book value of the street lighting facilities, but 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, 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 October 24, 2023. No petition to intervene or otherwise participate in this proceeding was timely filed. This proceeding is therefore uncontested. Pursuant to § 40-6-109(5) C.R.S., this matter may be determined without a hearing.

9. The Commission reviewed the testimony and exhibits provided by the Company and 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 Centennial city limits as set forth in the PSA.

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 Centennial 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 Purchase and Sale Agreement (PSA) and between Public Service and Centennial; (2) distribution pole points of delivery and equipment lists that can be used to deduce the number of street lights being sold under the PSA; and (3) the conversion cost estimate provided for the PSA.

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

12. The Commission has previously granted Extraordinary Protection for Highly Confidential Information of a similar nature in Decision No. C19-0113 in the Golden street lighting sale in Proceeding No. 18A-0883E and Decision No. R20-0011-I in the Greenwood Village lighting sale in Proceeding No. 19A-0534E.

13. To support its request, Public Service asserts that 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.

14. There are no intervenors to this Proceeding and no one has filed a response to the Motion.

15. 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 Consumer Counsel.¹

16. 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 Jennifer L. Baker identifying the employees in groups with access to the highly confidential information. The affidavit requests the extraordinary protection remain in place until the conclusion of this Proceeding, and at that time, parties destroy the highly confidential information or return it to Public Service.

¹ The Office of Consumer Counsel's name was statutorily changed in 2022 to the Office of the Utility Consumer Advocate (UCA).

17. 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.

18. 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

19. 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.

20. Based on the foregoing, we grant the Motion and approve the non-disclosure agreements.

21. Access to the highly confidential information shall be limited to the Commissioners, any assigned Administrative Law Judge, the Commission's Advisory Staff and Advisory Counsel, Trial Staff, and the UCA.²

² The Commissioners, Commission advisory staff, Commission Advisory Counsel, Administrative Law Judges, Trial Staff, and Trial Staff counsel sign annual non-disclosure agreements covering all confidential and highly confidential information filed with the Commission and are not required to sign separate agreements in individual cases. *See* Rule 1100(i) of the Commission's Rules of Practice and Procedure, 4 CCR 723-1.

22. We remind counsel and the parties that individuals permitted access to the highly confidential information may use it only for purposes of this Proceeding, consistent with the Commission's confidentiality rules. The protected highly confidential information may not be disclosed to any unauthorized persons.

II. ORDER

A. The Commission Orders That:

1. The Application for approval of the Purchase and Sale Agreement by and between Public Service and the City of Centennial, Colorado for the sale of all street lighting facilities and appurtenant equipment owned by Public Service within the Centennial city limits filed on October 20, 2023, by Public Service Company of Colorado (Public Service) is deemed complete, and is granted.

2. The Motion for a Protective Order Affording Extraordinary Protection for Highly Confidential and competitive information that Public Service filed on October 20, 2023, 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 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 Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
December 6, 2023.**

(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