

Decision No. C25-0014-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 24A-0442E

IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO FOR APPROVAL OF ITS 2024 JUST TRANSITION SOLICITATION.

**INTERIM COMMISSION DECISION
GRANTING REQUEST FOR PARTIAL WITHDRAWAL
OF MOTION FOR EXTRAORDINARY PROTECTION
AND PROVIDING DIRECTION**

Issued Date: January 9, 2025
Adopted Date: December 30, 2024

I. BY THE COMMISSION

A. Statement, Findings, and Conclusions

1. On October 15, 2024, Public Service Company of Colorado (“Public Service” or the “Company”) filed a Verified Application of Public Service Company of Colorado for Approval of its 2024 Just Transition Solicitation (“Application”). Concurrently with the filing of the Application, Public Service filed an Omnibus Motion for Extraordinary Protection of Highly Confidential Information and for Partial Waiver of Rules 3606(b), 3612(a), 3618(b)(I), 3613(a) and 3613(d) in the Commission’s Rules Regulating Electric Utilities, 4 *Colorado Code of Regulations* (“CCR”) 723-3, and Waiver of Rule 3608(c)(III)-(IV).

2. The Company sought extraordinary protection for 15 categories of documents and information described in the Application, pursuant to Rule 1101(b), 4 CCR 723-1.

3. For the first 12 categories of information, the Company requested an order limiting party access to a “reasonable number of attorneys” and a “reasonable number of subject matter

experts,” representing a party to this Proceeding and subject to such individuals executing a non-disclosure agreement, consistent with Rule 3614(b), 4 CCR 723-3. With respect to the remaining categories, the Company sought a waiver of Rule 3614(b) and requested the Commission limit access to only the Commission, Staff of the Public Utilities Commission, the Office of the Utility Consumer Advocate, and the Independent Evaluator.

4. Parties objected to the Public Service’s request regarding category 15, which was described as “other bid information contained in bid packages (from the Company or other entities) not otherwise listed in item twelve or as confidential or public information,” arguing, among other things, that the description was overly vague and objected to the heightened protections requested by the Company.

5. By Decision No. C24-0941-I, issued on December 23, 2024, the Commission granted the Company’s requests regarding the first 14 categories of information. With respect to the contested category 15, the Commission directed Public Service to file, as soon as possible and preferably by December 26, 2024, additional information on category 15 and state clearly why it should be approved as a separate category with heightened protections.

6. On December 26, 2024, Public Service filed its response. The Company states that while it understands the Commission’s request for additional information and appreciates the interests of the intervenors who oppose the heightened protections, the information submitted with bid packages is some of the most commercially sensitive materials from the Independent Power Producer bidders and from the Company’s own bid team.¹

7. The Company states the data covered by category 15 includes (1) bidder financial information including certain cost and financing data; (2) bidder equipment information and

¹ Public Service Response at p. 1.

detailed operational projections; and (3) bidder information relating the permitting status, siting considerations, land use rights, and prior bidder experience. Public Service asserts all this information is highly sensitive and its disclosure would cause significant competitive harm to bidders.²

8. While the Company believes strong protections for this information are critical for maintaining attractiveness of Colorado to developers and to the integrity of the bid process, it states this information will not be relevant in this Proceeding until after the conclusion of Phase I of this Proceeding. In light of this, the Company proposes two options moving forward: (1) the Commission could hold the request for extraordinary protection of Category 15 in abeyance until the end of the Phase I process, and request that the Company confer with Intervenors and either present a consensus proposal or put forward its proposal that can be briefed by the parties at the same time as Phase I statements of position; or (2) the Company would be willing to partially withdraw its motion with respect to Category 15, with the understanding that it would refile a more detailed proposal—again, with the goal of reaching consensus—at the conclusion of Phase I.

9. The Company states it is amenable to either option and that under either pathway it will present a more detailed proposal after further conferral with other parties and discuss how bid information that must be kept as highly confidential can be summarized for the public in anonymized and/or aggregated form to support transparency and enable public discussion by the Commission and Parties during Phase II.³

10. We appreciate the Company's expeditious filing and willingness to work with the Commission and other parties with respect to the information described in category 15.

² *Id.* at p. 2.

³ *Id.* at pp. 2-3.

11. The second option proposed by Public Service provides the best path forward under the circumstances. This latter option is simpler procedurally and allows the Commission to properly consider the Company's subsequent filing subject to standard procedural rules and deadlines. It also encourages further conferral among the parties regarding the information at issue, prior to the information being filed given the Company's representations on timing. Accordingly, we grant the Company's alternative request to withdraw its motion with respect to category 15 with the understanding that it will refile a more detailed proposal, with the goal of reaching consensus, at the conclusion of Phase I of this Proceeding.⁴

II. ORDER

A. **It Is Ordered That:**

1. The alternative request filed by Public Service Company of Colorado ("Public Service") to withdraw its request seeking that certain information defined as "category 15" within its Omnibus Motion for Extraordinary Protection of Highly Confidential Information and for Partial Waiver of Rules, filed on October 15, 2024, be classified as highly confidential, is granted, consistent with the discussion above.

⁴ For an abundance of clarity, no determination regarding classification of category 15 information as highly confidential is made through this Decision. As indicated in Option 2, the Company shall file one or more future motions seeking extraordinary protection regarding and clarifying the specific information and treatment requested, following further conferral with parties. Categories 1 through 14 are granted extraordinary protection, consistent with the determinations made in Decision No. C24-0941-I, issued on December 23, 2024. The request for highly confidential classification of category 15 information is deemed withdrawn and shall not be addressed unless and until the Company provides further filings seeking extraordinary protection. While such a filing will be expected near the conclusion of Phase I, should category 15 information be raised prior to that time, the Company is not prohibited from making any appropriate request for protections upon conferral with parties, consistent with Commission rules.

2. Public Service shall confer with intervenors in this Proceeding prior to providing any additional filing requesting highly confidential classification of the information described in category 15, consistent with the discussion above.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
December 30, 2024.**



(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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Commissioners