

Decision No. C25-0259-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 24A-0547E

IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO FOR APPROVAL OF ITS 2025-2029 DISTRIBUTION SYSTEM PLAN AND THE GRID MODERNIZATION ADJUSTMENT CLAUSE.

**INTERIM COMMISSION DECISION GRANTING
OMNIBUS MOTION FOR EXTRAORDINARY
PROTECTION, IN PART**

Issued Date: April 7, 2025
Adopted Date: March 19, 2025

I. BY THE COMMISSION

A. Statement

1. By this Decision, the Commission grants in part the Omnibus Motion for Extraordinary Protection (“Motion”) filed by Public Service Company of Colorado (“Public Service” or the “Company”) in this Proceeding on December 18, 2024. The Commission will address the remaining requests for rule variances in the Motion in a future decision.

B. Background

2. Public Service filed its Application pursuant to § 40-2-132, C.R.S., and Rules 3529 to 3541 of the Commission’s Rules Regulating Electric Utilities, 4 *Code of Colorado Regulations* (“CCR”) 731-3, for approval of the Company’s 2025-2029 DSP as well as its proposed GMAC rider. Concurrent with its Application, it filed the Omnibus Motion for Extraordinary Protection (“Motion”).

3. The Commission issued a Notice of Application filed on December 18, 2024. The Notice set a 30-day intervention period that ran through January 17, 2025.

4. By Decision No. C25-0057, the Commission found that more information was necessary before deeming the Application complete and required Public Service to file responsive information by February 14, 2025. Public Service timely filed the requested information on February 14, 2025, as Hearing Exhibit 109 and associated attachments.

5. By Decision No. C25-0154-I, the Commission deemed the Application complete and granted the requests for permissive intervention filed by Colorado Energy Consumers Group (“CEC”); the City and County of Denver (“Denver”); the Interstate Renewable Energy Council (“IREC”); Pivot Energy Inc. (“Pivot”); the Eastern Metro Area Business Coalition (the “Eastern Metro Area Business Coalition”); the City of Boulder (“Boulder”); Holy Cross Electric Association Inc. (“Holy Cross”); Western Resource Advocates (“WRA”); Tesla, Inc. (“Tesla”); the Southwest Energy Efficiency Project and Natural Resource Defense Counsel, jointly (“SWEEP/NRDC”); Mission:data Coalition, Inc. (“Mission:data”); and filing jointly, the Colorado Solar and Storage Association (“COSSA”) the Solar Energy Industries Association (“SEIA”) the Coalition for Community Solar Access (“CCSA”) and the Advanced Energy United (“AEU”) (jointly the “Associations for Clean Energy,” or “ACE”). The Commission acknowledged the notices of intervention of right filed by Trial Staff of the Commission (“Staff”), the Office of the Utility Consumer Advocate (“UCA”), and the Colorado Energy Office (“CEO”).

6. Decision No. C25-0154-I also directed that any responses to the Omnibus Motion were due by March 10, 2025.

7. Also on March 12, 2025, the Commission received the Variance Motion from the Company. In its motion, the Company requests a variance from the supplemental direct

requirements in Paragraphs 65(c)(ii)-(iv) and 65(d)(ii)-(v) of Decision No. C25-0154-I, both of which request that the Company update its distribution planning models based on varying assumptions pertaining to load management and the Company's planning threshold for feeder capacity. The Company also requests response time to the motion be waived since the supplemental direct deadline is March 21, 2025. The Company indicates that Staff, CEC, and UCA each oppose and reserve the right to respond.

8. By Decision No. C25-0203-I, the Commission vacated the pre-hearing conference and provided additional guidance regarding the Variance Motion.

9. On March 24, 2025, Public Service filed information responsive to Decision No. C25-0203-I ("Public Service Comments and Updated Conferral Report").

C. Discussion, Findings, and Conclusions

1. Omnibus Motion

10. Concurrent with its Application, Public Service filed an Omnibus Motion which contained a request for extraordinary protection of highly confidential information and a request for a partial variance from Commission Rules 3528(c) and 3537(b)(VI). Pursuant to § 40-2-132.5(5)(d)(III), C.R.S., the Company's DSP is required to include "detailed mapping of distribution hosting capacity with appropriate safeguards to protect critical infrastructure, as determined by the Commission." The Company asserts that the information is proprietary in nature and highly sensitive, and public disclosure would present security risks to the Company and the public at large. Public Service seeks to limit disclosure of the Highly Confidential Mapping Information to only those parties in this Proceeding that have a demonstrated "need to know" regarding the specific physical locations and technical details about electric system infrastructure. Those parties include the Commission, State agencies, Colorado municipalities, counties,

environmental advocates who routinely practice before the Commission, and authorized representatives of trade associations. Other categories of potential intervenors do not have a demonstrated “need to know” for this specific Highly Confidential Mapping Information according to Public Service. The Company proposes that secure access will be provided through an ESRI ArcGIS Online interface if the authorized party has or obtains that platform, or alternatively, Company-facilitated viewing. The Company states that it has a responsibility at both the state and federal level to safeguard information regarding critical infrastructure, and physical and cybersecurity attacks on the Company’s electric facilities could cause widespread disruption to the electric grid.

11. In response to Decision No. C25-0154-I, the Commission received a notice from the Company that the following parties would receive access: Staff, UCA, CEO, ACE, Boulder, CEC, Denver, EEBC, IREC, SWEEP/NRDC, and WRA. Holy Cross, Tesla, Mission:data, and Pivot would not receive access.

12. By Decision No. C25-0154-I, the Commission set response time to the Motion to March 10, 2025. The Commission received timely responses from Holy Cross, IREC, UCA, COSSA/SEIA/CCSA/AEU, and Pivot Energy.

13. In its response, UCA argues that it opposes Public Service’s Motion because it failed to meet its burden of proof in requesting highly confidential treatment. UCA argues a blanket designation will obstruct progress towards advancing the value of hosting capacity analysis to its customers. UCA reiterates that hosting capacity information being publicly available is in the public interest and consistent with the Commission’s rules. UCA states that the Commission has identified this Proceeding, including the hosting capacity analysis and its underlying data, as important to meeting Colorado's energy goals. Limiting access to the Mapping Information will

frustrate achievement of those goals to the detriment of ratepayers. The Commission has viewed hosting capacity analyses as a crucial tool in the future of the electricity distribution system in Colorado, with the potential to improve as technology matures.

14. Holy Cross argues that it should receive access to the mapping information covered by the Motion because Holy Cross is a retail electric utility, which though not regulated by the Commission, is not a “bad actor” looking for “high impact locations for physical attacks” on Public Service’s distribution system. It argues more generally that the motion should be denied because the description of the highly confidential mapping information does not meet the Commission’s rules and does not explain the information covered in enough detail. It also does not understand why it was included among the list of excluded parties because Holy Cross is a longstanding business partner of Public Service, and holds similar, strong interests in protecting critical infrastructure information for Public Service’s system as well as its own which in many locations are proximate to one another. Holy Cross asserts that NDAs are appropriate safeguards for this information.

15. IREC also argues that the Commission should “clearly and narrowly define the hosting capacity data that will receive highly confidential treatment in this Proceeding” rather than embrace Public Service’s “ambiguous and overbroad definition.” IREC states that the Commission could continue to weigh the costs and benefits of making HCA public throughout the proceeding, but at this juncture should limit highly confidential treatment to location-specific data on the Company’s distribution system. IREC requests that the Commission narrow the scope of protection to cover information that explicitly refers to data regarding specific locations on the distribution grid to allow for the most important functions of the HCA—how the model function, and whether it is accurate and useful, to proceed in an open and transparent manner.

16. COSSA/SEIA/CCSA/AEU also argue that the defined highly confidential information is too broad and should be denied because of vagueness and breadth concerns. COSSA/SEIA/CCSA/AEU suggest that the Commission should only extend highly confidential protection to mapping information that is clearly tied to an identified business risk; infrastructure data that is not otherwise publicly available; and specific customer load data that, if disclosed, would violate the Commission's data privacy rules (in particular, the "15/15 Rule" and that narrowing the scope of protected information down to these particular categories strikes the appropriate balance between risk mitigation and reasonable access for intervenors. COSSA/SEIA/CCSA/AEU also argue that the Commission should order the Company to provide mapping data within the ESRI platform through a "Web Map" that allows the map to be shown through a web browser instead of requiring a license for ESRI.

17. Pivot argue that the Company's request to deny access to the mapping information to companies that are members of trade associations is neither in the public interest nor based on sound legal reasoning. Pivot argues that the Company provides no clear reasoning as to why DER development companies in particular pose any greater security risk than the suite of entities that PSCo recommends should have access to the distribution hosting capacity information. Pivot states: "Excluding DER development companies from access to the mapping information, as proposed by PSCo in its Motion, is completely counter to the Commission's broader objective of exploring how well-located DER projects — developed through the JTS ERP and other programs and procurement vehicles — can secure a "potential reduction in the proposed transmission investments that may be enabled by addressing distribution capacity with distributed generation, distributed storage, and demand-side resources located within the Denver Metro constraint." Pivot and other developers will have no way of knowing where to target sites for

deployment of distribution-interconnected resources, such as energy storage facilities, if the locations of distribution constraints, and points on the system where both load and generation can cost-effectively interconnect, are withheld.” Pivot argues that the Company is inconsistently classifying data across proceedings, and that the feeders eligible for avoided distribution capacity value is only marked confidential in the VPP. Pivot also points to rule 3541 which requires a web portal that is publicly available and provides map-based and tabular data.

18. 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.

19. 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 ...

20. We find persuasive the reasoning and arguments in the Motion. 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. Based on the foregoing, we grant the motion to afford extraordinary protection and approve the non-disclosure agreements. For clarity, we understand the motion to afford extraordinary protection to apply to “locational data” as it relates to grid

security concerns—that is, information related to “associated underlying information” should not be afforded extraordinary protection unless related to underlying security concerns. While we find that extraordinary protection for this information is appropriate; however, we find that the Company has not met its burden to prove why Pivot, Tesla, Holy Cross, or Mission:data should be restricted from accessing this information within this Proceeding. We find that this information will be relevant to their adjudication of this Proceeding, and that the Company has not presented any compelling reasons as to why access by these intervenors is riskier than other intervenors. We therefore order the Company to provide this information to all parties that follow appropriate Commission procedures and provide the appropriate NDAs. We further find that the Company should provide the information in a form accessible through a web platform is that is a technical possibility as suggested by COSSA/SEIA/CCSA/AEU.

21. We will address the requests for rule variances found in the Motion through separate order at a later time in the Proceeding.

II. ORDER

A. It Is Ordered That:

1. The Omnibus Motion for Extraordinary Protection filed by Public Service Company of Colorado in this Proceeding on December 18, 2024, is granted in part, consistent with the discussion above.

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

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
March 19, 2025.**

(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