

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04S-164E

RE: THE INVESTIGATION AND SUSPENSION OF TARIFF SHEETS FILED BY PUBLIC SERVICE COMPANY WITH ADVICE LETTER NO. 1411.

**ORDER GRANTING MOTION TO ACCEPT CUSTOMER
IMPACT INFORMATION AND MOTIONS FOR
EXTRAORDINARY PROTECTION, IN PART**

Mailed Date: July 26, 2004

Adopted Date: July 9, 2004

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for consideration of three motions by Public Service Company of Colorado (Public Service or Company): the Motion to Accept Customer Impact Information One Day Out of Time filed on July 2, 2004; the Motion for Extraordinary Protection filed on March 26, 2004; and the Motion for Extraordinary Protection filed on June 3, 2004.

2. Good cause having been stated, we waive response time to the Motion to Accept Customer Impact Information and grant the motion.

3. As for the two Motions for Extraordinary Protection, the Company requests that we limit access to certain "highly confidential" information to members of Commission Staff (Staff) and the Colorado Office of Consumer Counsel (OCC). That is, the Company requests

that certain information not be disclosed to the parties to this case, except for Staff and the OCC.¹ The March 26, 2004 motion concerns load research data filed under seal as part of the Direct Testimony and exhibits of witness Clark, and certain customer-specific billing and load data provided to Staff and the OCC pursuant to the Settlement and Agreement in Phase I of this case. The June 3, 2004 motion concerns load research data provided under seal in response to certain audit requests by Staff, CPUC 6-3, and CPUC 6-4. According to the motions, even limited disclosure of the information to the parties here, under the terms specified in the confidentiality rules (4 *Code of Colorado Regulations* (CCR) 723-16), would "put the Company at a competitive disadvantage" (*e.g.*, at times when it purchases power to serve native load).

4. The Regents of the University of Colorado (CU) filed a response and amended response objecting to the Motions for Extraordinary Protection. CU notes that it is not a competitor to the Company, and, therefore, disclosure of the information to CU could not result in competitive harm to Public Service. Furthermore, CU points out that the subject information is relevant to issues in this proceeding, and disclosure to CU may assist it in participating in this case.

5. No other party besides CU objected to the Motions for Extraordinary Protection. Therefore, we grant the motions with respect to all other parties in this case (besides Staff and the OCC). Public Service need not disclose the subject information to these parties.

¹ Staff and OCC members would still be required to execute non-disclosure agreements in accordance with the Commission's confidentiality rules, 4 CCR 723-16.

6. However, we direct Public Service to disclose the information to CU in accordance with the terms and provisions of the confidentiality rules.² As the response states, CU is not a competitor to Public Service; therefore, the rationale for extraordinary protection cited in the Motions does not apply to CU. Moreover, we note that the Motions failed to explain why the protective provisions specified in the confidentiality rules are insufficient to safeguard the Company's competitive interests in the subject information to a non-competitor party. Those rules strictly limit the manner in which information claimed to be confidential should be disclosed to parties, and specify how those parties, must protect that information from further disclosure.

7. We direct the Company to timely disclose the information discussed in the Motions for Extraordinary Protection to CU. That disclosure shall occur in accordance with the Commission's confidentiality rules.

II. ORDER

A. The Commission Orders That:

1. The Motion to Accept Customer Impact Information One Day Out of Time filed on July 2, 2004, by Public Service Company of Colorado, is granted. Response time to the motion is waived.

² CU's attorneys and representative must first read the confidentiality rules and, by execution of non-disclosure agreements, agree not to further disclose that information except in accordance with the rules (*e.g.*, if the information is used in filed testimony, it will be filed under seal). We emphasize that CU must not disclose this information to other parties in this case who are not permitted to examine this information even as part of its prefiled testimony.

2. The Motion for Extraordinary Protection filed on March 26, 2004, by Public Service Company of Colorado, is granted in part only consistent with the above discussion. The Motion is denied with respect to the Regents of the University of Colorado.

3. The Motion for Extraordinary Protection filed on June 3, 2004, by Public Service Company of Colorado, is granted in part only consistent with the above discussion. The Motion is denied with respect to the Regents of the University of Colorado.

4. This Order is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
July 9, 2004.**

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners