

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 22A-0309EG

IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO FOR APPROVAL OF A NUMBER OF STRATEGIC ISSUES RELATING TO ITS ELECTRIC AND GAS DEMAND SIDE MANAGEMENT AND BENEFICIAL ELECTRIFICATION PLAN.

**INTERIM DECISION GRANTING SECOND MOTION FOR
EXTRAORDINARY PROTECTION**

Mailed Date: November 14, 2022

Adopted Date: November 9, 2022

I. BY THE COMMISSION

A. Statement

1. By this Decision, the Commission grants the Second Motion for Extraordinary Protection of Highly Confidential Information (Motion), filed by Public Service Company of Colorado (Public Service or the Company) on November 3, 2022. Through the Motion, Public Service seeks an order granting highly confidential treatment of certain customer information it states is protected by Rule 3033(b) of the Commission’s Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR), 723-6, *i.e.*, the “15/15 Rule.”¹ Upon review of the Motion and its attachments, we find good cause to grant the relief sought in the Motion.

¹ The 15/15 Rule provides: “At a minimum, a particular aggregation must contain at least fifteen customers; and, within any customer class no single customer’s 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[.]”

B. Procedural History

2. On July 1, 2022, Public Service initiated this matter by filing its Application and Direct Testimony requesting Commission approval of the proposals contained in the Company's Demand Side Management (DSM) and Beneficial Electrification (BE) Strategic Issues application. Public Service states, similar to previous Strategic Issues proceedings, this filing is designed to seek Commission re-examination and approval of the overall objectives and structure of Public Service's DSM initiatives to guide the Company in designing future DSM plans. The Company states, however, this Proceeding differs for a number of reasons including the addition of BE, a greater focus on gas DSM, more focused efforts to reduce carbon emissions, and changing needs of electric DSM.

3. Through Decision No. C22-0515-I, issued September 6, 2022, the Commission established the following parties to this Proceeding: Public Service, Trial Staff of the Commission, the Office of the Utility Consumer Advocate, the Colorado Energy Office, the City and County of Denver, the City of Boulder, Climax Molybdenum Company, Colorado Energy Consumers, the Conservation Coalition, the Colorado Renewable Energy Society, the Energy Efficiency Business Coalition, Energy Outreach Colorado, the Southwest Energy Efficiency Project, and Western Resource Advocates.

4. Through Decision No. C22-0664-I, issued October 28, 2022, the Commission granted Public Service's first Motion for Extraordinary Protection. Through that first motion, Public Service sought an order granting highly confidential treatment of the following categories of information: hourly pricing, energy, and emissions data contained in EnCompass input and output data either contained in or related to its workpapers or anticipated for production through discovery; and information protected by a confidentiality clause of a Power Purchase Agreement.

5. Public Service states no party opposes the requested relief in the Motion.

C. Motion

6. The Motion seeks extraordinary protection for customer-specific information sought through discovery or otherwise produced in this Proceeding that does not comport with the 15/15 Rule, which information the Company claims is highly confidential. Public Service requests the Commission grant extraordinary protection for customer-specific data that is protected by the 15/15 Rule, including for any data produced or otherwise submitted in this Proceeding.

7. Public Service explains that, in discovery, it has been asked to provide customer-specific information related to program participation. The Company states, as an example, in Discovery Request CPUC9-29, Trial Staff of the Commission asked for the Voluntary Load Reduction associated with customers participating in Peak Day Partners for the past ten years. Public Service states the Company's response provides customer-specific information that does not comport with the 15/15 Rule because less than 15 customers participate in Peak Day Partners.

Public Service states it has received additional discovery requests that seek customer-specific information that does not meet the thresholds of the 15/15 Rule.

8. Public Service requests that access to this claimed highly confidential information be limited to: the Commissioners, the Commission's Advisory Staff and advisory attorneys, Trial Staff of the Commission and their attorneys, and the Colorado Office of the Utility Consumer Advocate and their attorneys. Public Service states, for these limited parties, it will provide the pertinent information under highly confidential designation. For all other parties, it will provide a public version of the information, with the claimed highly confidential customer-specific information redacted.

9. Public Service states this request is reasonable and in the public interest, as it is consistent with the Commission's 15/15 Rule, and the Commission has consistently granted the same or similar relief in the past. Public Service maintains that extraordinary protection is warranted because disclosure would violate the letter and spirit of the Commission's data privacy rules, which were promulgated to protect customers from the unauthorized disclosure of customer-specific information. The Company adds that extraordinary protection for this information is consistent with Commission Rule 1105, 4 CCR 723-1, (addressing the disclosure of a customer's personal information) and Rule 3027, 4 CCR 723-3, (governing the disclosure of customer data by a utility).

10. In compliance with Rule 1101(b) of the Commission's Rules of Practice and Procedure, 4 CCR 723-1, Public Service filed form highly confidential non-disclosure agreements and an affidavit containing a list of individuals at Public Service who have access to the claimed highly confidential information.

D. Findings and Conclusions

11. Public Service conferred with all the intervening parties in this Proceeding and no party opposes the motion. We therefore find good cause waive the remaining response time.

12. We find that, pursuant to Rule 1101(b) of the Commission's Rules of Practice and Procedure, 4 CCR 723-1, the Motion appropriately designates the customer-specific information identified in the Motion as 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 the highly confidential protections proposed by Public Service will afford sufficient protection for the highly confidential information. We therefore find good cause to grant the Motion.

13. As requested in the Motion, access to the categories of competitively sensitive information identified in the Motion is limited to: the Commissioners, the Commission's Advisory Staff and advisory attorneys, Trial Staff of the Commission and their attorneys, and the Colorado Office of the Utility Consumer Advocate and their attorneys. Individuals accessing the protected information must comply with the approved non-disclosure agreement (Attachments A and B to the Motion), including that they may not use the information for commercial purposes, or disclose the information to any unauthorized person, including those within the intervening organization, for any reason.

II. ORDER

A. It Is Ordered That:

1. The Second Motion for Extraordinary Protection, filed by Public Service Company of Colorado, on November 3, 2022, is granted, consistent with the discussion above.

2. The remaining response time to the Second Motion for Extraordinary Protection is waived.

3. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
November 9, 2022.**

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THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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JOHN GAVAN

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Commissioners

ATTEST: A TRUE COPY

Doug Dean,
Director