

Decision No. C22-0835-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 22AL-0537E

IN THE MATTER OF ADVICE LETTER NO. 1909 - ELECTRIC FILED BY PUBLIC SERVICE COMPANY OF COLORADO TO REVISE ITS COLORADO P.U.C. NO. 8 - ELECTRIC TARIFF TO REVISE THE CAPACITY AND ENERGY PAYMENT RATES APPLICABLE TO QUALIFYING FACILITIES, TO BECOME EFFECTIVE JANUARY 1, 2023.

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

Mailed Date: December 23, 2022

Adopted Date: December 21, 2022

I. BY THE COMMISSION

A. Statement

1. By this Decision, the Commission grants the Motion for Extraordinary Protection (Motion), filed by Public Service Company of Colorado (Public Service or the Company) on December 1, 2022. Through the Motion, Public Service seeks an order granting highly confidential treatment to certain PLEXOS® modeling input and output data (Highly Confidential Information). The Highly Confidential Information is included in attachments and workpapers prepared in support of the Company's annual advice letter filing to revise capacity and energy payment rates for Qualifying Facilities with a design capacity of 100 kW or less for the 2023 calendar year. Upon review of the Motion and its attachments, we find good cause to grant the relief sought in the Motion.

B. Motion

2. On December 1, 2022, Public Service initiated this matter by filing an advice letter proposing to revise capacity and energy payment rates for calendar year 2023 applicable to qualifying facilities with a design capacity of 100 kW or less. As required by a prior Commission decision, Public Service filed with its advice letter, its PLEXOS® model diagnostic run for the coming calendar year and the inputs used in the PLEXOS® model base case for the coming calendar year.

3. Through the Motion, Public Service seeks extraordinary protection under Rule 1101(b) of the Commission's Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-1 of certain PLEXOS® inputs and outputs, provided in attachments and workpapers, and any other document referencing or related to the indicated information in this Proceeding. No parties intervened and no responses were filed to the Motion.

4. Public Service states the following categories of information are highly confidential: (1) PLEXOS® modeling input data; and (2) PLEXOS® modeling output data.

5. With regard to PLEXOS® modeling input data, Public Service identifies a subset of data for which it requests access be limited to the Commissioners, Commission Advisors and Commission Advisory Counsel, the Administrative Law Judge, Commission Staff and its attorneys, and the Colorado Office of the Utility Consumer Advocate (UCA) staff and its attorneys. This restriction applies to the following categories of information:

- a. Highly Confidential Contract Data pertaining to generator fuel contract information, such as price, term and transport cost and Power Purchase Agreements information such as price, term, and capacity;

- b. Highly Confidential Generation Unit Performance Data including heat rate, ramp up and down times, variable operating and maintenance costs, and generator maintenance schedules; and
- c. Highly Confidential Transmission Market Access Data including data pertaining to the Company's future access conditions across transmission systems that has not been publicly posted on OASIS.¹

6. Public Service requests that access to the remaining categories of PLEXOS® modeling input data described in the Motion be limited, for parties other than Commission Staff and UCA, to a “reasonable number of attorneys” and a “reasonable number of subject matter experts” representing the party. This applies to the following categories of information:

- a. Highly Confidential Generation Unit Operating Characteristics Data including information on the extent to which particular generating units constitute baseload (i.e., is considered “must-run” or “economic” to run, referred to as the “commit” variable), mean repair times, forced outage and maintenance rates, and start cost time data;
- b. Highly Confidential Price Stream Data identifying the Company's purchase or sales entry into the wholesale energy markets;
- c. Highly Confidential Hourly System Load Data forecasted for 2023 and broken down by region that provides insight into peaks and valleys (on/off peaks); and
- d. Highly Confidential Wind and Solar Capacity Data including forecasted hourly capacity data for 2023 for each generator.²

7. With regard to PLEXOS® modeling output data, Public Service identifies a subset of data for which it requests access be limited to the Commissioners, Commission Advisors and Commission Advisory Counsel, the Administrative Law Judge, Commission Staff, and its

¹ See Motion at 5, categories identified as (a) through (c).

² See Motion at 5, categories identified as (d) through (g).

attorneys, and the UCA staff and its attorneys. This restriction applies to the following categories of information:

- a. Highly Confidential Hourly System Marginal Cost Data forecasting hourly system marginal cost for each hour of 2023; and
- b. Highly Confidential Hourly Generation Data forecasting the energy each Company-owned generating unit will produce each hour throughout 2023.³

8. Public Service requests that access to the remaining categories of PLEXOS® modeling output data described in the Motion be limited, for parties other than Commission Staff and UCA, to a “reasonable number of attorneys” and a “reasonable number of subject matter experts” representing the party. This applies to the following categories of information:

- a. Highly Confidential Hourly System Average Cost forecasting average system cost data for each hour throughout 2023 in dollars per MWh; and
- b. Highly Confidential Hourly System Total Cost forecasting total system cost data for each hour throughout 2023 in total dollars.⁴

9. Public Service states the PLEXOS® modeling input and output data described in the Motion is commercially sensitive information that is used in the Company’s daily trading operation and elsewhere in the Company’s business operations that should not be supplied to potential vendors or competitors. Public Service states this same input information is used in associated tools to provide Public Service’s operations personnel a projection of the next hour’s cost to sell energy (incremental cost) or the projected costs that will be saved by purchasing energy instead of running the Public Service controlled generators (decremental cost). The Company states that revealing this information to a supplier or competitor could severely hamper Public Service’s trading operation to the harm of its customers.

³ See Motion at 6, categories identified as (a) and (b).

⁴ See Motion at 6, categories identified as (c) and (d).

10. Public Service states that Highly Confidential Generation Unit Performance Data, Highly Confidential Transmission Market Access Data, and Highly Confidential Hourly System Marginal Cost Data are especially competitively sensitive because the granular nature of such data would directly allow competitors to develop hourly commit and dispatch stacks that could create an unfair advantage in purchase or sale bidding strategies to the detriment of Public Service's customers. Public Service states that Highly Confidential Hourly Generation Data is similarly commercially sensitive because it could readily be used to ascertain the heat rate associated with particular generating units, which is a category of Highly Confidential Unit Performance Data. Finally, Public Service states that revealing the contract data included in the Highly Confidential Contract Data category in the open market would again provide an unfair advantage to vendors to, or competitors of, Public Service.

11. In compliance with Rule 1101(b) of the Commission's Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (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.

12. Public Service requests that individuals accessing any of the Highly Confidential Information described in this Motion, with the exception of the Commissioners, the Administrative Law Judge, Commission Counsel, and Commission Staff, would be required to execute an appropriate highly confidential non-disclosure agreement, provided as Attachment A (counsel) and Attachment B (subject matter expert) to the Motion.

13. Public Service provided an affidavit as Attachment C to the Motion identifying all persons with access to the information and the period of time for which it must remain subject to

highly confidential designation. Public Service contends this information must remain protected as highly confidential indefinitely.

14. Public Service requests that all parties and their counsel either destroy or return the Highly Confidential Information at the conclusion of this Proceeding.

15. Public Service states the requests in the Motion are consistent with prior Commission designations, including Proceeding No. 21AL-0591E by Decision No. C21- 0819, Proceeding No. 20AL-0531E by Decision No. C20-0921, and Proceeding No. 19AL-0687E by Decision Nos. R20-0121-I and R20-0169-I.

C. Findings and Conclusions

16. As the party seeking a determination that the information is highly confidential and that extraordinary protection is required to limit access to specific individuals under stated conditions, Public Service bears the burden of establishing that the Commission should grant the requested relief. § 24-4-105(7), C.R.S.; Rules 4 CCR 723-1-1101(b) and 4 CCR 723-1-1500.

17. 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 categories of competitively sensitive 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.

18. At the Commissioners’ Weekly Meeting on December 21, 2022, we allowed Public Service’s Advice Letter No. 1909 - Electric and proposed tariff sheet to go into effect by operation

of law. As there are no parties to this Proceeding, no persons or entities other than the Commissioners, Commission Advisors and Advisory Counsel, and Commission Staff and its attorneys shall have access to the Highly Confidential Information described in the Motion.

II. ORDER

A. It Is Ordered That:

- 1. The Motion for Extraordinary Protection, filed by Public Service Company of Colorado, on December 1, 2022, is granted, consistent with the discussion above.
- 2. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
December 21, 2022.**

(S E A L)



ATTEST: A TRUE COPY

G. Harris Adams,
Interim Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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JOHN GAVAN

MEGAN M. GILMAN

Commissioners