

Decision No. C14-1260-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14A-0302E

IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO FOR APPROVAL TO ISSUE TARGETED REQUEST FOR PROPOSALS TO ACQUIRE GENERATION RESOURCES TO SUPPORT THE SOLAR*CONNECT PROGRAM.

PROCEEDING NO. 14A-0301E

IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO FOR APPROVAL OF ITS SOLAR*CONNECT PROGRAM.

**INTERIM DECISION: (1) GRANTING STAFF'S
MOTION TO REPLY REGARDING MOTION
TO DISMISS; AND, (2) DENYING PUBLIC
SERVICE'S MOTION FOR RECONSIDERATION**

Mailed Date: [October 20, 2014]
Adopted Date: October 1, 2014

I. BY THE COMMISSION

A. Staff's Motion for Leave to File a Reply

1. On August 29, 2014, Commission Staff (Staff) filed a Motion to Dismiss Public Service Company of Colorado's (Public Service) Solar*Connect program application (Motion to Dismiss). Staff's Motion to Dismiss argues that Public Service's proposed program violates § 40-3-114, C.R.S., which says: "The commission shall ensure that regulated electric and gas utilities do not use ratepayer funds to subsidize nonregulated activities."

2. On September 12, 2014, Public Service filed a response to Staff's Motion to Dismiss, and on September 17, 2014, Staff filed a Motion for Leave to File Reply to Public Service's Response (Motion for Leave). Staff's Motion for Leave requests permission to address

a statement contained in Public Service's response. We grant Staff's Motion for Leave to file a reply.

3. We also inform the parties that resolution of Staff's Motion to Dismiss requires consideration of the factual record in this case. The Commission will address Staff's Motion to Dismiss as part of the other merits of the case, after the evidentiary hearings scheduled for November 3 through 5, 2014, and the submission of Statements of Position. Parties may address the Motion to Dismiss in their Statements of Position, due November 19, 2014.

B. Public Service's Motion for Reconsideration of Decision Granting Extraordinary Protection and Request for a Stay.

4. On September 17, 2014, the Commission issued Interim Decision No. C14-1128-I on Public Service's motion requesting extraordinary protection for information contained in its testimony and requested through discovery by other parties. The information consists of natural gas price forecasts developed by three consulting firms and output files produced by Public Service's model. Public Service requested restricting the gas price forecast data to only the Commission, its Advisory Staff, Trial Staff, and their respective attorneys. Public Service requested the same restrictions for the modeling outputs, except that the Office of Consumer Counsel (OCC) and its attorneys also would be granted access.

5. Vote Solar and Western Resource Advocates opposed Public Service's motion for extraordinary protection. Vote Solar requested access to both categories of data, and Western Resource Advocates requested only the modeling outputs.

6. The Interim Decision granted in part, and denied in part, Public Service's motion. The Commission granted Public Service's request to classify the gas price forecast and modeling output data as subject to protections beyond those granted to confidential information under

Commission rules. The Commission denied Public Service's motion to permit access to only the Commission, Trial Staff, the OCC, and their respective attorneys. Vote Solar and Western Resource Advocates demonstrated a need for the information to prepare their respective positions in this case, and no party contended that the data are irrelevant to Public Service's application for approval of its Solar*Connect program. The Interim Decision limited disclosure of these data to only counsel of record for Vote Solar and Western Resource Advocates, and to one expert for each of Vote Solar and Western Resource Advocates.

7. On September 29, 2014, Public Service filed a Motion for Reconsideration of the Commission's Interim Decision (Motion for Reconsideration), but only as to the granting of access to Vote Solar of the natural gas price forecasts. Public Service also requests that the Commission stay the Interim Decision granting access of the natural gas price forecasts to Vote Solar until the Commission rules on the merits of the Motion for Reconsideration.

8. Public Service's Motion for Reconsideration argues that the pricing data are not important components of its case, and that Vote Solar did not make a sufficient showing of relevance. Public Service presumed the Commission may be concerned about the accuracy of the averaging of the forecasts by its witness, and suggested the Commission and Staff may verify the averaging without disclosing the information to Vote Solar. Public Service also relies upon license agreements with its vendors restricting disclosure beyond the state agencies and their attorneys. The impact of public disclosure of the data upon Public Service's purchasing strategies is another basis for Public Service's Motion for Reconsideration.

9. We deny Public Service's Motion for Reconsideration. Requests for access to relevant information offered into the record by another party will be sustained absent an overriding showing of harm and risk of disclosure. The Interim Decision allowed access to

relevant information while also protecting the information from disclosure by limiting access to only counsel of record and one expert for Vote Solar. Public Service's witness injected the gas forecast data into this case and established their relevancy, and Public Service has not shown on reconsideration how the Interim Decision's access restrictions to only counsel of record and one expert, subject to a specified nondisclosure agreement, will place the information at an unreasonable risk of disclosure. We also deny as moot Public Service's request for a stay pending resolution of its Motion for Reconsideration.

II. ORDER

A. It Is Ordered That:

1. The Motion for Leave to File Reply to Public Service Company of Colorado's Response, filed on September 17, 2014, by Commission Staff, is granted, consistent with the above discussion.
2. The Motion for Reconsideration of Decision No. C14-1128-I, Granting Extraordinary Protection to Highly Confidential Proprietary Natural Gas Forecasts and Request for Stay of a Portion of the Order, filed by Public Service Company of Colorado on September 29, 2014, is denied.
3. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
October 1, 2014.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JOSHUA B. EPEL

PAMELA J. PATTON

GLENN A. VAAD

Commissioners