

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14AL-0393E

IN THE MATTER OF ADVICE LETTER NO. 680 FILED BY BLACK HILLS/COLORADO ELECTRIC UTILITY COMPANY, LP TO REVISE ITS COLORADO PUC NO. 9 ELECTRIC TARIFF TO IMPLEMENT A GENERAL RATE SCHEDULE ADJUSTMENT TO INCREASE RATES, A NEW RIDER PURSUANT TO THE CLEAN AIR-CLEAN JOBS ACT, AND OTHER CHANGES, PROPOSED TO BE EFFECTIVE ON MAY 31, 2014.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
ROBERT I. GARVEY
GRANTING MOTION FOR PROTECTIVE
ORDER AFFORDING EXTRAORDINARY
PROTECTION FOR CONFIDENTIAL
PROPRIETARY CUSTOMER INFORMATION**

Mailed Date: August 1, 2014

I. STATEMENT

1. On April 30, 2014, Black Hills/Colorado Electric Utility Company, LP (Black Hills or Company) filed Advice Letter No. 680. Black Hills submitted Advice Letter No. 680 with supporting testimony and exhibits.

2. By Decision No. C14-0522, issued May 16, 2014, the effective date of the Advice Letter was suspended until September 28, 2014. The matter was also referred to an administrative law judge (ALJ) for disposition.

3. The procedural history of this proceeding is set out in previous Decisions and is repeated here as necessary to put this Decision in context.

4. On July 15, 2014, Black Hills filed its Motion for a Protective Order Affording Extraordinary Protection for Confidential Proprietary Customer Information (Motion).

5. In the Motion, Black Hills states that the Staff of the Public Utilities Commission (Staff) served Black Hills with its Fourth Set of Discovery Requests on July 1, 2014. That set included Discovery Request CPUC 4-3 which references the corrected direct testimony of Mr. Charles R. Gray at Page 7 Lines 9-17 and Page 8, Lines 1-2. The cited section of Mr. Gray's corrected direct testimony describes the four-year contract with a large manufacturing customer providing for a monthly contract demand of 14 MW and the expiration of the contract in May 2013. Because the customer's obligation to pay this minimum contract demand expired during the Base Period (calendar year ending December 31, 2013), the Company made an adjustment "to Black Hills' Base Period revenues to achieve proper matching between Test Period revenues and expenses for the period of time in which the new rates become effective." Corrected Direct Testimony of Charles R. Gray, at 6:20-22, Proceeding No. 14AL-0393E (filed June 27, 2014). The Discovery Request seeks the "the contract(s), billing statements, and any other support documentation for the adjustment."

6. Black Hills argues that this Discovery Request requires the disclosure of highly confidential contractual commercial agreements with customers and customer billing information. The documents responsive to this request can be attributed to one specific customer, therefore, the Company seeks a protective order providing extraordinary protection for this Highly Confidential Information. Because it is possible that Black Hills may receive additional discovery requests seeking disclosure of similar customer-specific information, the Company also requests permission to designate any such information as highly confidential pursuant to the order sought through this Motion.

7. In the Motion, Black Hills seeks to limit disclosure of the information to the Commissioners, the ALJ presiding over this matter, the Commission's Advisory Staff and

advisory attorneys, the Commission's Trial Staff and attorneys for Trial Staff, and the Office of Consumer Counsel (OCC) and attorneys for OCC. Black Hills has included its own non-disclosure agreement for attorneys and subject matter experts with its Motion.

8. No intervenor opposes the Motion. The Company's Motion strikes a reasonable balance between the need for disclosure so that the intervenors in this matter can protect their interests, with the need of Black Hills to protect its own interests. Therefore, the Motion will be granted.

9. The information deemed as highly confidential contained in Attachment CPUC 4-3.1 and Attachment CPUC 4-3.2 will be available to, Commissioners, the ALJ presiding over this matter, the Commission's Advisory Staff and advisory attorneys, the Commission's Trial Staff and attorneys for Trial Staff, and the OCC and attorneys for OCC. Each of the parties with the exception of the ALJ and the Commissioners shall contact Black Hills as to the method the Company chooses to dispose of the information upon the conclusion of this proceeding as provided under Rule 1100(l)(I) of the Commission's Rules of Practice and Procedure, 4 *Code of Colorado Regulations* 723-1.

10. Because Commission Trial Staff and Advisory Staff, the ALJ, and Commissioners must have already signed and have on file with the Commission a current annual non-disclosure agreement they will not be required to execute Black Hills' non-disclosure agreement prior to gaining access to the highly confidential information as indicated under Rule 1100(h).

11. In order to have access to the highly confidential information, OCC employees, OCC attorneys and Commission attorneys assigned to this matter, must have signed, served, and filed the Non-disclosure Agreement provided by Black Hills prior to gaining access to the highly confidential information.

II. ORDER

A. It Is Ordered That:

1. Black Hills/Colorado Electric Utility Company, LP's (Black Hills) Motion for a Protective Order Affording Extraordinary Protection for Confidential Proprietary Customer Information is granted consistent with the discussion above.

2. Access to the Highly Confidential Information as described above is limited consistent with the discussion above.

3. In order to have access to the highly confidential information, the Office of Consumer Counsel (OCC), OCC attorneys and Commission attorneys must have signed, served, and filed the Non-disclosure Agreement provided by Black Hills.

4. Members of the Commission Trial and Advisory Staff and the Attorneys General representing Trial Staff and Advisory Staff assigned to this proceeding must have signed and have on file with the Commission a current annual non-disclosure agreement in accordance with Commission Rule 4 *Code of Colorado Regulations* 723-1-1100(h) prior to gaining access to the Highly Confidential Information.

5. Black Hills may designate any additional discovery requests seeking disclosure of similar customer-specific information as Highly Confidential Information.

6. All provisions enumerated above are now in effect regarding the Highly Confidential Information.

7. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ROBERT I. GARVEY

Administrative Law Judge

ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Doug Dean".

Doug Dean,
Director