

Decision No. R14-1118-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14AL-0660E

IN THE MATTER OF ADVICE LETTER NO. 1672 - ELECTRIC OF PUBLIC SERVICE COMPANY OF COLORADO TO REVISE THE GENERAL RATE SCHEDULE ADJUSTMENT (GRSA) RIDER APPLICABLE TO ALL ELECTRIC BASE RATE SCHEDULES AND REVISE THE TRANSMISSION COST ADJUSTMENT (TCA) TO REMOVE COSTS THAT HAVE BEEN SHIFTED TO BASE RATES TO BECOME EFFECTIVE JULY 18, 2014.

PROCEEDING NO. 14A-0680E

IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO FOR APPROVAL OF ITS ARAPAHOE DECOMMISSIONING AND DISMANTLING PLAN.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
MANA L. JENNINGS-FADER
GRANTING THIRD MOTION FOR
EXTRAORDINARY PROTECTION**

Mailed Date: September 11, 2014

I. STATEMENT

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

2. On August 28, 2014, by Decision No. C14-1043, as pertinent here, the Commission referred to an Administrative Law Judge (ALJ) motions seeking extraordinary protection of information that is found to be highly confidential.

3. On August 18, 2014, Public Service Company of Colorado (Public Service or the Company) filed its Third Motion for Extraordinary Protection (Third Motion).¹ In that filing, the Company seeks a determination that the following 11 documents contain highly confidential information: Highly Confidential Attachment CPUC 17-1.A1 (appended to the Company's response to Staff Audit Request CPUC 17-1); Highly Confidential Attachment CPUC 17-2.A1 (appended to the Company's response to Staff Audit Request CPUC 17-2); and Highly Confidential Attachment CPUC 17-4.A1 through and including Highly Confidential Attachment CPUC 17-4.A9 (nine documents appended to the Company's response to Staff Audit Request CPUC 17-4) (collectively, the 11 Highly Confidential Attachments). If the Commission determines that the identified documents contain highly confidential information, the Company requests the following extraordinary protection for the information: Staff of the Commission (Staff) and its counsel and the Office of Consumer Counsel (OCC) and its counsel may have access to the information, and the information shall be withheld from all other parties and their counsel.

4. The response time to the Third Motion has expired, and no response was filed. The Third Motion is unopposed. In addition, pursuant to Rule 4 *Code of Colorado Regulations* (CCR) 723-1-1400(d),² the ALJ deems the failure to respond to be a confession of the motion. Thus, all intervenors have acquiesced to the granting of the Third Motion, including the extraordinary protections sought.

¹ The motion was filed in Proceeding No. 14AL-0660E.

² This Rule is found in the Rules of Practice and Procedure, Part 1 of 4 *Code of Colorado Regulations* 723.

5. As the party seeking an order from the Commission, Public Service bears the burden of establishing that the requested relief should be granted. Section 24-4-105(7), C.R.S.; Rule 4 CCR 723-1-1101(b).

6. A motion for extraordinary protection must comply with Rule 4 CCR 723-1-1101(b). The ALJ finds that the Third Motion complies with that Rule.

7. The Third Motion identifies the 11 Highly Confidential Attachments as

electronic copies of quarterly Critical Accounting Policies reports ('Reports'), submitted by the Controller of Xcel energy Services Inc. to the member of the Audit Committee of the Board of Directors of Xcel Energy Inc. ('Xcel Energy') in compliance with Sarbanes-Oxley Act of 2002 ('SOX'). ... In compliance with [Securities and Exchange Commission] rules and SOX, these Reports have a very limited distribution, i.e., within Xcel to the Audit Committee members and the employees with a need to know who prepare the Reports, and to Xcel Energy's external auditors, Deloitte and Touche. These Reports contain financial information material to both Xcel Energy and Public Service and are proprietary, commercially and competitively sensitive, and highly confidential.

Third Motion at 2. *See also* Third Motion at Attachment B (Affidavit of Scott B. Brockett attesting to same).

8. The Third Motion states good cause to grant the relief sought. The ALJ finds that the data in the 11 identified documents are highly confidential. The ALJ finds that the requested protections are appropriate; are reasonable; and are consistent with Commission rules, practices, and policies. Given the absence of response to the Third Motion, the ALJ finds that no party will be prejudiced if the Third Motion is granted.

9. The ALJ will grant the Third Motion. The ALJ will order that access to the information in the 11 Highly Confidential Attachments will be limited to the Commissioners, Commission advisors, Staff, Staff's counsel in this Proceeding, employees of the OCC assigned to this Proceeding, and OCC's counsel in this Proceeding. Disclosure to the employees of the

OCC assigned to this Proceeding, to the Assistant Attorneys General who represent Staff in this Proceeding, and to the Assistant Attorneys General who represent OCC in this Proceeding is conditioned on the signing and filing of the Nondisclosure Agreement attached to the Third Motion.³

II. ORDER

A. It Is Ordered That:

1. The Third Motion for Extraordinary Protection, which motion was filed on August 18, 2014 by Public Service Company of Colorado (Company) in Proceeding No. 14AL-0660E, is granted.

2. The following documents contain and are highly confidential information: Highly Confidential Attachment CPUC 17-1.A1 (appended to the Company's response to Staff Audit Request CPUC 17-1); Highly Confidential Attachment CPUC 17-2.A1 (appended to the Company's response to Staff Audit Request CPUC 17-2); and Highly Confidential Attachment CPUC 17-4.A1 through and including Highly Confidential Attachment CPUC 17-4.A9 (nine documents appended to the Company's response to Staff Audit Request CPUC 17-4). The information contained in the 11 identified documents shall be treated as highly confidential information in accordance with Rules 4 *Code of Colorado Regulations* 723-1-1100 and 723-1-1101 and this Interim Decision.

3. Access to the highly confidential information identified in Ordering Paragraph No. 2 is restricted to the Commissioners, Commission advisors, Staff of the Commission,

³ Employees of the Commission sign and keep on file a nondisclosure agreement pursuant to Rule 4 CCR 723-1-1100(h). Thus, they are not required to sign the Nondisclosure Agreement attached to the Third Motion.

Staff's counsel in this Proceeding, employees of the Office of Consumer Counsel who are assigned to this Proceeding, and the Office of Consumer Counsel's counsel in this Proceeding.

4. Disclosure of the highly confidential information identified in Ordering Paragraph No. 2 to Staff's counsel in this Proceeding, employees of the Office of Consumer Counsel who are assigned to this Proceeding, and the Office of Consumer Counsel's counsel in this Proceeding is conditioned on the signing and filing of the Nondisclosure Agreement attached to the Third Motion for Extraordinary Protection filed on August 18, 2014.

5. The Parties are held to the advisements contained in the Decisions issued in this Proceeding.

6. This Interim Decision is effective immediately.

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

MANA L. JENNINGS-FADER

Administrative Law Judge