

Decision No. R20-0919-I

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO**

PROCEEDING NO. 20AL-0432E

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IN THE MATTER OF ADVICE LETTER NO. 1835 – ELECTRIC FILED BY PUBLIC SERVICE COMPANY OF COLORADO TO REVISE ITS COLORADO P.U.C. NO. 8 - ELECTRIC TARIFF TO ELIMINATE THE CURRENTLY EFFECTIVE GENERAL RATE SCHEDULE ADJUSTMENTS ("GRSA") AND GENERAL RATE SCHEDULE ADJUSTMENT - ENERGY ("GRSA-E"), AND PLACE INTO EFFECT REVISED BASE RATES AND OTHER AFFECTED CHARGES FOR ALL ELECTRIC RATE SCHEDULES IN THE COMPANY'S ELECTRIC TARIFF, INCLUDING UPDATED ELECTRIC AFFORDABILITY PROGRAM ("EAP"), LOAD METER, AND PRODUCTION METER CHARGES TO BECOME EFFECTIVE NOVEMBER 19, 2020.

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**INTERIM DECISION OF  
ADMINISTRATIVE LAW JUDGE  
STEVEN H. DENMAN  
GRANTING MOTION REQUESTING  
EXTRAORDINARY PROTECTION OF  
HIGHLY CONFIDENTIAL INFORMATION**

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Mailed Date: December 28, 2020

**I. STATEMENT**

**A. Procedural History.**

1. On October 19, 2020, Public Service Company of Colorado (Public Service) filed Advice Letter No. 1835-Electric along with tariff sheets. Through Advice Letter No. 1835-Electric, Public Service proposes to allocate its approved \$1,835,585,415 revenue requirement<sup>1</sup> across customer classes, based on a Class Cost of Service Study (CCOSS) using the 2019 Test Year approved by the Commission in Proceeding No. 19AL-0268E. Public Service states that this filing does not affect its annual revenue. This Proceeding is a Phase II Electric Rate Case.

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<sup>1</sup> The amount of \$1,828,985,415 was approved in Proceeding No. 20AL-0268E and \$6,600,000 for the Electric Affordability Program was allowed in Proceeding No. 20AL-0090E.

2. The effective date of the tariff sheets filed with Advice Letter No. 1835-Electric have been suspended for a total of 250 days until July 27, 2021, pursuant to § 40-6-111(1)(b), C.R.S. (2019).<sup>2</sup>

3. The procedural history of this Proceeding is set forth in Decisions previously issued herein and is repeated only as necessary to put this Decision into context.

4. On October 19, 2020, Public Service filed a Motion for Extraordinary Protection for Highly Confidential Customer Information (Motion for Protective Order). No responses have been filed to the Motion for Protective Order.<sup>3</sup>

5. At the prehearing conference held on December 22, 2020, the presiding Administrative Law Judge (ALJ) granted the Motion for Protective Order. This Interim Decision memorializes the ALJ's grant of the Motion for Protective Order.

**B. Motion for Protective Order.**

6. In its Motion for Protective Order, Public Service requests an order granting extraordinary protection for competitively sensitive and highly confidential information the Company is producing as part of the supporting work papers for the Direct Testimony and Attachments of Company witnesses Mr. Alexander G. Trowbridge (Principal Pricing Analyst, Pricing and Planning, for Public Service) and Ms. Dolores R. Basquez (Pricing Consultant for Public Service). Specifically, the competitively sensitive and highly confidential information consists of customer-specific usage, revenue and direct assigned investment, along with such similar individual or disaggregated customer information for rate schedules with fewer than 15

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<sup>2</sup> See Decision No. C20-0793 (issued on November 10, 2020) and Decision No. R20-0887-I (issued on December 11, 2020).

<sup>3</sup> Rule 1400(d) of the Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-1 (2020), states: "The Commission may deem a failure to file a response as a confession of the motion."

customers or direct assigned investment, that may later be provided in this proceeding through discovery or otherwise.<sup>4</sup>

7. Public Service states that this highly confidential information includes customer-specific information for certain individual customers (e.g., billing, usage, other load information, and direct-assigned specific substation distribution investment), as well as any other individual customer data for rate schedules with fewer than 15 customers or direct assigned investment, that does not comport with Rule 3033(b) of the Rules Regulating Electric Utilities 4 CCR 723-3 (2020) (collectively, the Highly Confidential Information).<sup>5</sup>

8. Rule 3033(b), 4 CCR 723-3, the “15/15 Rule,” provides in part:

At a minimum, a particular aggregation must contain at least fifteen customers; and, within any customer class no single customer’s customer 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 (the “15/15 Rule”).

9. At this time, the Highly Confidential Information is contained in the supporting work papers for Mr. Trowbridge’s and Ms. Basquez’s Direct Testimonies. In completing a revenue proof to demonstrate that the proposed rates result in proper total cost recovery, Mr. Trowbridge included usage and revenue information per rate schedule, and certain of Public Service’s rate schedules include fewer than 15 customers, and in some instances just a single customer. Mr. Trowbridge aggregated the customer usage and revenue information for these rate schedules in the weather-normalized billing determinants and revenue proof in Attachments AGT-1 and AGT-3 to his Direct Testimony. However, Mr. Trowbridge’s supporting work papers for Attachments AGT-1 and AGT-3 show this information

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<sup>4</sup> Motion for Protective Order, at page 1.

<sup>5</sup> *Id.*, at page 2.

disaggregated for all rate schedules, including rate schedules under which 15 or fewer customers take service. In developing the CCOSS, Ms. Basquez's work papers include customer-specific distribution substation investment information that is directly assigned to certain individual Transmission General customers through their specific Service and Facility Charge.<sup>6</sup>

10. The referenced fully-disaggregated customer data for customers under rate schedules with fewer than 15 customers comprises the Highly Confidential Information for which Public Service seeks extraordinary protection, along with any such similar individual or disaggregated customer information for rate schedules with fewer than 15 customers or direct assigned investment that may later be provided in this Proceeding through discovery, or otherwise.

11. According to Public Service, extraordinary protection is necessary for the Highly Confidential Information in order to comply with the Commission's rules regarding data privacy and disclosure of personal information<sup>7</sup> and customer data.<sup>8</sup> Public Service asserts that disclosure of such information absent extraordinary protections would be in violation of these Commission rules and restrictions.<sup>9</sup> Public Service asserts that the Commission has consistently granted its similar requests for extraordinary protection of similar customer-specific information and data not comporting with the 15/15 Rule.<sup>10</sup>

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<sup>6</sup> *Id.*, at pages 3 and 4.

<sup>7</sup> See Rule 1105 of the Rules of Practice and Procedure, 4 CCR 723-1.

<sup>8</sup> See Rules 3025 through 3035 of the Rules Regulating Electric Utilities, 4 CCR 723-3.

<sup>9</sup> Motion for Protective Order, at page 1.

<sup>10</sup> *Id.*, at pages 6 and 7. See Decision No. C19-0621-I, at ¶ 36, (issued July 23, 2019) in Proceeding No. 19AL-0268E; see also Decision No. C14-1043, at ¶¶ 66 and 71, (issued August 28, 2014) in Proceeding Nos. 14AL-0660E and 14A-0680E.

12. Public Service requests that the Protective Order limit access to this Highly Confidential Information to only: (1) Commissioners; (2) Commission Staff (Staff); (3) employees of the Office of Consumer Counsel (OCC) assigned to this proceeding; (4) counsel for Staff and OCC assigned to this proceeding; (5) a reasonable number of subject-matter experts for other intervenors who require access for purposes of this proceeding, and who do not represent a party who will gain an unfair competitive advantage by having this information; and (6) a reasonable number of attorneys for other intervenors who require access for purposes of this proceeding, and who do not represent a party who will gain an unfair competitive advantage by having this information.

13. The ALJ will grant Public Service's Motion for Protective Order. The Highly Confidential Information, as described in the Motion for Protective Order and in this Decision, is extremely sensitive and is highly confidential and deserves extraordinary confidentiality protection.

14. The ALJ agrees with Public Service that the referenced fully-disaggregated customer data for customers under rate schedules with fewer than 15 customers, found in Mr. Trowbridge's supporting work papers for Attachments AGT-1 and AGT-3 and Ms. Basquez's work papers supporting the CCOSS, should be, and is, deemed to be Highly Confidential Information for which extraordinary protection must be provided. Any such similar individual or disaggregated customer information for rate schedules with fewer than 15 customers or direct assigned investment, that may later be provided in this Proceeding through discovery or otherwise, is also deemed to be Highly Confidential Information covered by the same extraordinary protections.

15. Access to the Highly Confidential Information will be restricted to the following: (1) Commissioners; (2) Commission Staff (Staff); (3) employees of the Office of Consumer Counsel (OCC) assigned to this Proceeding; (4) counsel for Staff and OCC assigned to this Proceeding; (5) a

reasonable number of subject-matter experts for other intervenors who require access for purposes of this Proceeding, and who do not represent a party who will gain an unfair competitive advantage by having this information; and (6) a reasonable number of attorneys for other intervenors who require access for purposes of this Proceeding, and who do not represent a party who will gain an unfair competitive advantage by having this information. Public Service shall be responsible for ensuring the proper disposal of data subject to this Highly Confidential Protective Order at the conclusion of this Proceeding.

16. The relief requested in the Motion for Protective Order strikes a reasonable balance between the need for disclosure of information in this Proceeding and the need to protect the interests of Public Service and its customers. This Interim Decision will constitute a Highly Confidential Protective Order.

17. Attachments A and B to this Decision are Highly Confidential Non-Disclosure Agreements (NDAs) to be signed by any subject-matter expert or attorney or, respectively, who is authorized by this Decision to have access to the Highly Confidential Information. Highly Confidential NDAs must be signed by an attorney, or subject-matter expert and attorney as the case may be, before any such access to the Highly Confidential Information is required to be provided by Public Service. Signed Highly Confidential NDAs must also be filed with the Commission in this Proceeding within five business days after they have been signed.

18. Any person found, after notice and hearing, to have violated the terms and requirements of this Highly Confidential Protective Order shall be subject to any and all sanctions and penalties allowed by Colorado law.

**II. ORDER**

**A. It Is Ordered That:**

1. The Motion of Public Service Company of Colorado for Extraordinary Protection filed on October 19, 2020 is granted consistent with the findings, discussion, and conclusions in this Interim Decision.

2. Attachments A and B are incorporated by reference into this Decision.

3. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

STEVEN H. DENMAN

Administrative Law Judge

ATTEST: A TRUE COPY

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

Doug Dean,  
Director