

Decision No. C14-1090

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 11A-869E

IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO FOR APPROVAL OF ITS 2011 ELECTRIC RESOURCE PLAN.

PROCEEDING NO. 12A-782E

IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO FOR APPROVAL OF THE ACQUISITION OF THE BRUSH 1, 3, AND 4 GENERATION FACILITIES AND IN CONNECTION THEREWITH THE GRANT OF CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY IF REQUIRED AND THE APPROVAL OF COST RECOVERY THROUGH A GENERAL RATE SCHEDULE ADJUSTMENT.

PROCEEDING NO. 12A-785E

IN THE MATTER OF THE VERIFIED APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO FOR APPROVAL OF THE POWER PURCHASE AGREEMENT FOR 118.8 MW OF NATURAL GAS GENERATION, EARLY RETIREMENT OF ARAPAHOE UNIT 4, AND A GAS SALES AGREEMENT.

**DECISION APPROVING PROPOSAL
TO RELEASE CONFIDENTIAL AND HIGHLY
CONFIDENTIAL INFORMATION**

Mailed Date: September 9, 2014

Adopted Date: September 3, 2014

I. BY THE COMMISSION

A. Statement

1. On July 10, 2014, Public Service Company of Colorado (Public Service or Company) filed a Proposal to Refile Confidential and Highly Confidential Information as Public Information (Proposal), pursuant to Rule 3613(j) of the Commission's Electric Resource

Planning Rules 4 *Code of Colorado Regulations* (CCR) 723-3600 *et. seq.* Rule 3613(j) allows Parties to respond to the proposal within 30 days. No party responded to the Proposal.

2. Being duly advised in the matter, we grant the Proposal.

B. Discussion, Findings, and Conclusions

3. Public Service filed its Proposal on July 10, 2014, within 14 months of the receipt of bids, as required by Rule 3613(j). It must then disclose such information when it completes its resource acquisition.¹ Public Service states that it anticipates completing the resource acquisition prior to the 18-month deadline, and will make its disclosure filing at that time.

4. Public Service proposes to file as public the following confidential and highly confidential documents:

- a) 2013 All-Source Solicitation 20-Day Report (May 30, 2013);
- b) Revised 2013 PTC Wind Bid Evaluation Report (June 6, 2013);
- c) Errata to the 20-Day Report, Attachment C (June 12, 2013);
- d) 2013 All-Source Solicitation 120-Day Report (September 9, 2013);
- e) Initial Report on the 2013 PTC Wind Bid Evaluation Report (June 12, 2013);
- f) Errata to the 2013 PTC Wind Bid Evaluation Report Update (October 1, 2013);
- g) Final Report on the 2013 All-Source Solicitation (October 9, 2013);
- h) Comments on the Company's PTC Wind and/or 20-day Report, including: Colorado Gas Producers (June 11, 2013), Tradewind (June 11, 2013); Staff of the Commission (June 11, 2013), Western Resource Advocates (June 11, 2013), and Office of Consumer Counsel (June 12, 2013); and
- i) Comments on the Company's 120-day Report, including: Colorado Gas Producers (October 24, 2013), Southwest Generation Operating Company (October 24, 2013), Staff of the Commission (October 24, 2013), and Office of Consumer Counsel (October 30, 2013).

¹The resource acquisition must be complete within 18 months of the receipt of bids as required by Rule 3613(i).

5. The Company proposes not to release the following confidential and highly confidential information as public: 2013 All-Source Solicitation 20-Day Report Attachment B.

- a) Revised 2013 PTC Wind Bid Evaluation Report Appendix B;
- b) 2013 All-Source Solicitation 120-Day Report Appendix 2 – re-filed as public, but with existing PPA-specific information redacted as Highly Confidential;
- c) Bid proposal documents provided by bidders and the Company. The Highly Confidential Information would include all information required to be submitted to the Company pursuant to the RFP documents, all communications between the Company’s due diligence teams and the bid/proposal submitters, any subsequent information provided by submitters as a result of the Company’s due diligence efforts, and all of the Company’s due diligence reports; and
- d) All communications between the IE and the Company with respect to the bids and Company-owned proposals.

6. Public Service states that in deciding what confidential and highly confidential information should be disclosed, it proposes to follow the guidelines of Rule 3613(k), which is a separate requirement for the utility to post on its website certain bid information after the resource acquisition is complete. Rule 3613(k) generally requires bid information disclosures to allow a reasonable comparison between the bids that were received as well as utility proposals.

7. Public Service asserts that its proposal discloses sufficient information so that the public can have confidence in the competitive solicitation process that was conducted by the Company and reviewed by the Commission, yet protects a limited number of documents and certain bid information to protect the proprietary interests of past and future bidders.

8. We find that Public Service’s use of Rule 3613(k) as the basis for determining which information to disclose is appropriate and consistent with the overall intent of the Electric Resource Plan Rules. The Company is proposing to disclose nearly all record information used by the Commission in determining which resources to approve, and such disclosure will

adequately inform bidders and other interested persons² of the comparisons of the various bids, as contemplated by Rules 3613(j) and 3613(k). We further agree with Public Service that the confidential and highly confidential information it proposes not to release as public goes beyond the needs of information disclosure contemplated by Rules 3613(j) and 3613(k), so it is not necessary or appropriate to re-file such information as public.

9. No party filed a response to the Proposal and it is therefore unopposed. We find good cause to grant the proposal provided by Public Service. Public Service shall refile publicly Confidential and Highly Confidential Information consistent with its approved proposal and pursuant to Rules 3613(j) and 3613(k), 4 CCR 723.

II. ORDER

A. The Commission Orders That:

1. The Proposal to Refile Confidential and Highly Confidential Information as Public Information filed on July 10, 2014, by Public Service Company of Colorado (Public Service) is granted, consistent with the above discussion.

2. As proposed, Public Service shall refile the Confidential and Highly Confidential information as public, consistent with its approved proposal, within 18 months of the receipt of bids, as required by Rules 3613(j) and 3613(k) of the Commission's Electric Resource Planning Rules 4 *Code of Colorado Regulations* 723-3600 *et. seq.*

3. This Decision is effective upon its Mailed Date.

² Parties in the proceeding who signed the appropriate nondisclosure agreements were provided access to the confidential and highly confidential information, but bidders and other persons who did not sign the nondisclosure agreements were prohibited from accessing such information.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
September 3, 2014.**

(S E A L)



ATTEST: A TRUE COPY

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

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JOSHUA B. EPEL

PAMELA J. PATTON

GLENN A. VAAD

Commissioners