

Decision No. C14-1155-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14V-0910E

IN THE MATTER OF THE PETITION OF PUBLIC SERVICE COMPANY OF COLORADO FOR A DECLARATORY ORDER, OR IN THE ALTERNATIVE PETITION FOR WAIVER REGARDING THE APPLICATION OF DATA PRIVACY AND PERSONAL INFORMATION RULES.

**INTERIM DECISION DECLINING FILING AS A
REQUEST FOR DECLARATORY ORDER AND
NOTICING FILING AS A PETITION FOR WAIVER**

Mailed Date: September 19, 2014
Adopted Date: September 17, 2014

TO THE PARTIES IN THIS MATTER AND ALL INTERESTED PERSONS, FIRMS, OR CORPORATIONS:

I. BY THE COMMISSION

A. Statement

1. On September 2, 2014, Public Service Company of Colorado (Public Service or Company) filed a Petition for a Declaratory Order or Petition for Waiver (Petition). Public Service seeks a decision either declaring inapplicable or fully waiving Rules 3026(b), 3028, and 3030 of the Commission's Data Privacy Rules, 4 *Code of Colorado Regulations* (CCR) 723-3, and Rule 1105 of the Commission's Rules of Practice and Procedure, 4 CCR 723-1, governing the disclosure of information necessary for municipalities to audit Public Service's payment of certain franchise fees. Public Service seeks the requested relief to be effective until the Commission has made permanent rule changes in Proceeding No. 14R-0394EG which would allow such disclosures without the currently Commission-mandated consent forms.

2. Public Service claims certain Commission rules prohibit the Company from disclosing information required by municipal audits to ensure that the Company is meeting its franchise fee obligations. Public Service proposes a process that it states will allow the Company to comply with audit requests while ensuring an adequate level of protection for the data or personal information the Company provides. The Company states its proposal requires either a waiver of certain existing rules or a declaratory order from the Commission stating that the rules in question do not apply in instances where the Company is complying with audit requests pursuant to its franchise fee obligations.

B. Findings and Conclusions

3. The Commission has broad discretion in whether to accept a petition for declaratory order to terminate a controversy or remove uncertainty pursuant to § 24-4-105(11), C.R.S., and Commission Rules 1304(i)(II) and (III), 4 CCR 723-1. In this instance, we find a similar issue has been raised in Proceeding No. 14R-0394EG, where Public Service states it has proposed modifications to the Data Privacy Rules, consistent with its request in the Petition. Because this specific request is currently before the Commission for consideration in that rulemaking proceeding, we decline to accept Public Service's Petition for a Request for Declaratory Order.

4. The filing shall be construed instead as a Petition for Waiver to address the potential need for variances from the Commission's currently effective rules during the pendency of Proceeding No. 14R-0394EG.

5. This Decision is notice that the Petition requesting the Commission waive Rules 3026(b), 3028, 3030, 4 CCR 723-3, and Rule 1105, 4 CCR 723-1, was filed by Public Service on September 2, 2014. By this Decision we establish a 30-day notice and intervention

period within which other interested parties may seek intervention and present views on the Petition.

6. The notice period for the Petition for Waiver filed on September 2, 2014, by Public Service shall extend through October 20, 2014.

7. Any person desiring to intervene or participate as a party in this proceeding, including Staff of the Colorado Public Utilities Commission, shall file a petition for leave to intervene or, under the Commission's Rules of Practice and Procedure, other appropriate pleadings to become a party no later than October 20, 2014.

8. Alternatively, persons who do not wish to intervene or become a party, but desire to file comments, may send written comments addressed to the Public Utilities Commission, 1560 Broadway, Suite 250, Denver, Colorado 80202, or through the Commission's e-filing system at <http://www.dora.state.co.us/pls/efi/EFI.homepage>, using Proceeding No. 14V-0910E.

II. ORDER

A. It Is Ordered That:

1. We decline to accept the filing made by Public Service Company of Colorado (Public Service) on September 2, 2014 as a Petition for a Declaratory Order, consistent with the discussion above.

2. The filing made by Public Service on September 2, 2014, requesting the Commission waive Rules 3026(b), 3028, 3030, 4 *Code of Colorado Regulations* (CCR) 723-3, and Rule 1105, 4 CCR 723-1, shall be considered as a Petition for Waiver.

3. The notice period for the Petition filed on September 2, 2014, by Public Service shall extend through October 20, 2014.

4. Any person desiring to intervene or participate as a party in this proceeding, including Staff of the Colorado Public Utilities Commission, shall file a petition for leave to intervene or, under the Commission’s Rules of Practice and Procedure, other appropriate pleadings to become a party no later than October 20, 2014.

5. Alternatively, persons who do not wish to intervene or become a party, but desire to file comments, may send written comments addressed to the Public Utilities Commission, 1560 Broadway, Suite 250, Denver, Colorado 80202, or through the Commission’s e-filing system at <http://www.dora.state.co.us/pls/efi/EFI.homepage>, using Proceeding No. 14V-0910E.

6. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS’ WEEKLY MEETING
September 17, 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