

Decision No. C21-0027-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 20A-0345E

IN THE MATTER OF THE VERIFIED APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO FOR APPROVAL OF AN ECONOMIC DEVELOPMENT RATE (EDR) PROPOSAL PURSUANT TO COLORADO HB 18-1271.

**INTERIM COMMISSION DECISION GRANTING
MOTION FOR EXTRAORDINARY PROTECTION**

Mailed Date: January 13, 2021

Adopted Date: January 13, 2021

I. BY THE COMMISSION

A. Statement

1. By this Decision, the Commission grants the unopposed motion filed by Public Service Company of Colorado (Public Service or Company) on December 28, 2020, requesting the Commission issue an order granting extraordinary protection for certain PLEXOS® modeling inputs produced in discovery in this Proceeding.

B. Findings and Conclusions

2. Through its application in this Proceeding, Public Service proposes to create an Economic Development Rate (EDR) for new commercial and industrial customers, and existing customers who expand their load locally. The application is filed under the statutory revisions of House Bill 18-1271, signed into law in 2018, which added new subsections (6) through (8) to § 40-3-104.3, C.R.S. These new subsections provide a process by which an investor-owned utility subject to rate regulation by the Commission may offer economic development rates to a qualifying commercial or industrial customer pursuant to a Commission-approved economic development rate tariff.

3. This motion is the Company's second request for protection of certain PLEXOS® modeling information produced in discovery. The Commission previously granted a request for protection of certain PLEXOS® modeling *outputs* used by the Company to develop its proposed EDR-specific/modified energy cost adjustment (ECA) factor, referred to as the "EDR ECA Factor." Through Decision No. C20-0756-I, issued October 28, 2020, the Commission found Public Service had shown the need to protect this data as commercially sensitive information that, if disclosed, could cause irreparable harm to the Company's trading operations, its ability to solicit cost-effective resources, and ultimately, its customers.

4. This second motion requests extraordinary protection for certain PLEXOS® modeling *inputs*.

5. Public Service states that Commission Trial Staff's Discovery Request CPUC6-2 requests system hourly load inputs from 2016-2020 related to the PLEXOS® simulations Public Service relied upon to respond to prior discovery requests, as well as the set of cost parameter inputs for the generating units modeled in simulations from 2016-2020, including, but not limited to, variable operations and maintenance costs and start-up/shut-down costs. Public Service states the requested modeling input data is commercially sensitive information that is used in its daily trading operation and elsewhere in its business operations and should not be supplied to potential vendors or competitors. Public Service states producing this data in an unrestricted manner could result in significant harm to the Company and its customers.

6. Public Service requests extraordinary protection for the claimed highly confidential information it provides in response to Trial Staff's Discovery Request CPUC6-2. Public Service further requests to protect all categories of highly confidential PLEXOS® modeling input data it may be requested to produce. Public Service requests the protective order extend the same levels

of protection for any information of the same categories of PLEXOS® input data, and for any information sufficient to ascertain the categories of highly confidential information, that is produced through discovery.

7. With respect to data concerning contract terms, generation unit performance, and transmission market access, Public Service requests the Commission restrict access to: (1) Commissioners; (2) Commission advisors and advisory counsel; (3) the Administrative Law Judge; (4) Commission Trial Staff and its attorneys; and (5) the Colorado Office of Consumer Counsel (OCC) staff and its attorneys. With respect to data concerning generation unit operating characteristics, price stream data, hourly system load data, and wind and solar capacity data, Public Service requests the Commission restrict access by parties other than Trial Staff and the OCC to a reasonable number of attorneys and a reasonable number of subject matter experts. Public Service states it has concern that allowing broader disclosure poses too high a risk of inadvertent disclosure that could not be fully addressed through non-disclosure agreements.

8. Public Service states the motion is unopposed.¹

9. Pursuant to Rule 4 *Code of Colorado Regulations* (CCR) 723-1-1101(b) of the Commission's Rules of Practice and Procedure, a party that believes information requires extraordinary protection beyond the protection afforded to confidential information, may file a motion requesting highly confidential protection. The motion must include a detailed description or representative sample of the information sought to be protected. In addition, the motion must show the information is highly confidential, that the protection afforded by the Commission's rules for confidential information is insufficient, and that, if adopted, the highly confidential protections

¹ The Company requested waiver of response time. This request is moot as response time ran through January 11, 2021, without any responses filed.

proposed by the movant will afford sufficient protection. Finally, the motion must include an exhibit containing the information sought to be protected (or show why providing the information would be overly burdensome, impractical, or too sensitive).

10. The Commission finds Public Service has shown the need to protect the PLEXOS® modeling inputs as commercially sensitive information that, if disclosed, could create an unfair advantage for competitors that severely hampers the Company's trading operations, to the detriment of the Company and its customers. We, therefore, grant the motion and order the requested highly confidential protection. We further grant the Company's request that the protective order extend the same levels of protection for any information of the same categories of PLEXOS® input data described in the motion, and for any information sufficient to ascertain the categories of claimed highly confidential information described in the motion, that is produced going forward or otherwise used in this Proceeding.

II. ORDER

A. It Is Ordered That:

1. The unopposed Motion for Extraordinary Protection filed by Public Service Company of Colorado on December 28, 2020, is granted.

2. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
January 13, 2021.**

(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

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JOHN GAVAN

MEGAN M. GILMAN

Commissioners