

Decision No. C21-0092

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 21A-0043E

IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO FOR APPROVAL OF ITS ELECTRIC GAS PRICE VOLATILITY MITIGATION PLAN FOR THE PERIOD MAY 1, 2021 THROUGH APRIL 30, 2022.

**COMMISSION DECISION GRANTING
APPLICATION AND GRANTING MOTION
FOR EXTRAORDINARY PROTECTION**

Mailed Date: February 19, 2021
Adopted Date: February 10, 2021

I. BY THE COMMISSION

A. Statement

1. This Decision approves an application filed by Public Service Company of Colorado (Public Service or the Company) on January 14, 2021, for approval of its electric department Gas Price Volatility Mitigation (GPVM) Plan for the Gas Purchase Year May 1, 2021 through April 30, 2022 (Application). We also grant the Motion for Extraordinary Protection (Motion) filed by Public Service on January 14, 2021, requesting a protective order for certain highly confidential information.

B. Procedural History

2. Public Service filed the Application on January 14, 2021, consistent with the procedures and requirements for GPVM Plans adopted by the Commission in Decision No. C03-0670 in Proceeding No. 02S-315EG (June 26, 2003) (approving rate case settlement).

3. Concurrent with its Application, Public Service filed the Motion and also requested that the Commission waive response time to the Motion. The Motion requests that the

Commission, under Rule 1101(b) of the Commission's Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-1, enter an order granting extraordinary protection of certain information contained in Highly Confidential Attachments A and B that were filed with its Application.

4. On January 19, 2021, the Commission issued notice of the Application providing a ten-day intervention period for parties to raise concerns related to the Application. No interventions or responses to the Motion were filed.

C. Discussion of the Application

5. Public Service states that it filed the Application pursuant to Rules 4 CCR 723-1-1303 and 4 CCR 723-3-3002 of the Commission's Rules Regulating Electric Utilities, and Decision No. C03-0670 issued May 29, 2003. In Decision No. C03-0670, the Commission approved Public Service's Energy Cost Adjustment proposal, which included fuel GPVM Plan procedures designed to reduce the impact of market price swings on consumers.

6. As stated in its Application, Public Service is not requesting approval of specific hedging actions. Rather, it requests approval of a general hedging strategy with overall bounds. For the electric department's Gas Purchase Year May 1, 2021 through April 30, 2022, the GPVM Plan includes: (a) the volume of natural gas to be hedged; (b) the timing of the hedges; (c) descriptions of the types of hedging instruments that Public Service may use in implementing the proposed hedging plan; (d) the floor price used to calculate the benefit or the cost of the proposed plan; (e) the cap on gas hedging costs for the hedging period; (f) the Company's overall hedging plan concept; and (g) the Company's proposed implementation plan. The hedging strategy and its terms are highly confidential and are explained in detail in the GPVM Plan as set forth in the two highly confidential attachments to the Application.

II. FINDINGS

7. As the Application is unopposed, the Commission may consider the matter under modified procedures and without a hearing pursuant to the provisions of § 40-6-109(5), C.R.S., and Rule 4 CCR 723-1-1403.

8. Public Service is proposing no change to the hedged amount of 50 percent of the Company's normal winter purchase requirements or the fixed annual budget of \$15 million for the 2019 to 2020 hedging season.¹ However, the budget will be reduced by \$1.5 million to \$13.5 million in order to reflect the 200 MW Energy Purchase Agreement between Limon Wind II, LLC and Public Service.²

9. As explained in the testimony of Public Service, "Since the proposed seasonal hedge volumes for the 2021-2022 GPVM year are fully hedged by the gas purchase agreement approved pursuant to the Clean Air Clean Jobs (CACJA) proceeding and by gas held in storage ... the Company will not execute any financial hedges for the 2021-2022 season and the Annual Hedging Budget will be zero."³

10. In addition to the detailed plan for the upcoming heating season, Public Service requests the continuation of its "Long-Term Strategy" that authorizes the Company to implement financial hedging to cover up to 25 percent of seasonal gas requirements for five years beyond the upcoming season.⁴ Any gas volumes and hedging costs incurred in implementing the long-term hedging strategy will be netted against the 50 percent hedge goal and associated budget for the

¹ Decision No. C03-0670 in Proceeding No. 02S-315EG hard-wired a budget cap of \$15 million for the gas price volatility mitigation plans for the electric department.

² This budget adjustment was first approved on November 29, 2011 in Decision No. C11-1291 in Proceeding No. 11A-689E.

³ Proceeding No. 21A-0043E Highly Confidential Attachment A, page 4.

⁴ This five year period covers the 2021 to 2022 heating season to the 2025 to 2026 season.

applicable GPVM year. The first year when Public Service will not be fully hedged through the long-term fixed price contracts currently in place is the 2022 to 2023 heating season.

11. We find that the GPVM Plan complies with the Commission's previously articulated application requirements in regard to such plans. Further, based on our review of the GPVM Plan and attachments we find that the Application is reasonable, and will likely serve to mitigate gas price volatility. Therefore, we grant the Application of Public Service for approval of its fuel GPVM Plan for its electric department for the period May 1, 2021 through April 30, 2022.

A. Motion for Extraordinary Protection

12. Public Service requests extraordinary protection for information related to the Company's planned timing and quantity of electric department gas hedges for May 1, 2021 through April 30, 2022. In support of its Motion, Public Service contends that the highly confidential information is extremely competitively sensitive and release of the information to persons participating in the gas hedging market could jeopardize the Company's ability to pay reasonable prices in implementing its hedging strategy. According to Public Service, to prevent inadvertent disclosure that could cause great harm to the Company and its customers, access to this information must be limited to the Commission, its Staff, Commission Administrative Law Judges, employees of the Colorado Office of Consumer Counsel (OCC), and the Assistant Attorneys General representing the Commission, its Staff, and the OCC. Public Service states that in prior GPVM proceedings, the Commission has consistently provided the Company with extraordinary protection in the form it requests here for the same type of competitively sensitive and highly confidential projected fuel price information and hedging strategy information.

13. Public Service filed the specific form of non-disclosure agreement required by Rule 4 CCR 732-1-1101(b)(V) as Exhibit A to the Motion. Public Service requests that members of the

Commission Staff, the OCC, and their legal counsel execute the nondisclosure agreement. Public Service also filed as Exhibit B the affidavit of Jeffrey D. Ishee, Manager of Gas Supply for Xcel Energy Services Inc., to meet the requirement in Rule 4 CCR 732-1-1101(b)(VI). The affidavit provides the names of all persons with access to the highly confidential information and the period of time for which the information must remain subject to highly confidential protection.

14. We agree that disclosure of the information identified in the Motion could jeopardize Public Service's ability to pay reasonable prices for the various hedging instruments, and could therefore cause harm to its customers. Therefore, we find good cause to grant Public Service's Motion.

15. We clarify that under Rule 4 CCR 732-1-1100(h), Commissioners, Commission Staff, and Commission counsel are not required to sign the non-disclosure agreements provided by Public Service. Instead, each Commissioner, Commission Staff member, and Commission counsel signs an annual non-disclosure agreement that includes the requirement to "maintain and to treat information to which the Commission has granted highly confidential protection pursuant to paragraph 1101(b) in accordance with the decision granting highly confidential protection."

16. We deny as moot the Request for Waiver of Response Time to the Motion because the response time has run.

III. ORDER

A. The Commission Orders That:

1. The Application filed by Public Service Company of Colorado (Public Service) on January 14, 2021, for approval of the Electric Gas Price Volatility Mitigation Plan for its electric department for the period May 1, 2021 through April 30, 2022, is granted under the Commission's

modified procedures pursuant to § 40-6-109(5), C.R.S., and Commission Rule 4 *Code of Colorado Regulations* 723-1-1403.

2. The Motion for Extraordinary Protection filed by Public Service on January 14, 2021, is granted.

3. The Request for Wavier of Response Time is denied as moot.

4. The 20-day period provided by § 40-6-114, C.R.S., to file an application for rehearing, reargument, or reconsideration shall begin on the first day after the effective date of this Decision.

5. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
February 10, 2021.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ERIC BLANK

JOHN GAVAN

MEGAN M. GILMAN

Commissioners