

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

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**IN THE MATTER OF ADVICE NO. 1835-)
ELECTRIC OF 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 TO PLACE INTO EFFECT)
REVISED BASE RATES AND OTHER)
PHASE II TARIFF PROPOSALS TO)
BECOME EFFECTIVE NOVEMBER 19, 2020)**

PROCEEDING NO. 20AL-____E

**PUBLIC SERVICE COMPANY OF COLORADO’S MOTION FOR EXTRAORDINARY
PROTECTION OF HIGHLY CONFIDENTIAL INFORMATION**

Pursuant to Rules 1101(b) and 1400(a) of the Colorado Public Utilities Commission’s (“Commission”) Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-1, Public Service Company of Colorado (“Public Service” or the “Company”) respectfully moves the Commission to enter an order granting extraordinary protection for competitively sensitive and highly confidential information the Company is producing as part of the supporting workpapers for the Direct Testimony and Attachments of Company witnesses Mr. Alexander G. Trowbridge and Ms. Dolores R. Basquez, specifically customer-specific usage, revenue and direct assigned investment, along with 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, as described herein.

The highly confidential information for which the Company seeks extraordinary protection includes customer-specific information for certain individual customers (e.g., billing, usage, and other load information, as well as 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 Commission Rule 3033(b) (“15/15 Rule”) (collectively, the “Highly Confidential Information”). The Commission has consistently recognized such information as warranting extraordinary protection, in keeping with the Commission’s rules regarding data privacy and disclosure of personal information. Public Service therefore requests that extraordinary remedies be implemented to protect this Highly Confidential Information from disclosure beyond a reasonable number of subject matter experts and attorneys for each intervenor who requires access for purposes of this proceeding, and who do not represent a party who will gain an unfair competitive advantage by having this information.

In support of this Motion, Public Service states as follows:

I. STATEMENT REGARDING CONFERRAL

1. The Company has not conferred with any party regarding this Motion as this Motion is being filed contemporaneously with the filing of the Advice Letter and supporting testimony initiating this proceeding, and accordingly, no petitions to intervene have yet been filed. The Company is agreeable to whatever timeline the Commission deems prudent regarding intervenors’ response time to this Motion.

II. BACKGROUND

2. On August 5, 2020, Public Service filed Advice No. 1830-Electric in Proceeding No. 20AL-0328E, a compliance filing to implement revised electric base

rates pursuant to Decision Nos. C20-0096 (mailed February 11, 2020) and C20-0505 (mailed July 14, 2020) in the Company's 2019 Phase I Electric Rate Case, Proceeding No. 19AL-0268E ("2019 Phase I Rate Case").

3. On October 19, 2020, the same date this Motion is being filed, Public Service filed Advice No. 1835-Electric to place into effect rate design and tariff modifications resulting from the base rate revenue requirement established by the Commission in the 2019 Phase I Rate Case. In addition to updating the Company's Class Cost of Service Study ("CCOSS") to allocate its Commission-approved base rate revenue requirement among the Company's customer classes, Advice No. 1835-Electric proposed a number of other tariff changes.

4. The Company's complete filing includes the Direct Testimony and Attachments of the following six witnesses: Ms. Brooke A. Trammell – Regional Vice President, Rates and Regulatory Affairs, Xcel Energy Services Inc. ("XES"); Mr. Steven W. Wishart – Director, Pricing and Planning, XES; Mr. Daniel S. King – Team Lead, Product Development, XES; Mr. Trowbridge – Principal Pricing Analyst, Pricing and Planning, Public Service; Ms. Basquez – Pricing Consultant, Public Service; and Mr. Mario G. Martinez – Load Research Manager, Public Service.

5. At this time, the Highly Confidential Information is contained in the supporting workpapers for Mr. Trowbridge's and Ms. Basquez's Direct Testimonies.

6. In completing a revenue proof to demonstrate that the proposed rates result in proper total cost recovery, Mr. Trowbridge includes usage and revenue information per rate schedule, and certain of the Company'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 that he provided as Attachments AGT-1 and AGT-3 to his Direct Testimony. Mr. Trowbridge's supporting workpapers for Attachments AGT-1 and AGT-3, however, show this information disaggregated for all rate schedules, including rate schedules under which 15 or fewer customers take service.

7. In developing the CCROSS, Ms. Basquez's workpapers include customer specific distribution substation investment information that is directly assigned to certain individual Transmission General customers through their specific Service and Facility Charge.

8. The referenced fully disaggregated customer data for customers under rate schedules with fewer than 15 customers comprises the Highly Confidential Information for which the Company 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.

III. MOTION FOR EXTRAORDINARY PROTECTION

9. Rule 1101(b) governs motions for extraordinary protection. The Rule requires a party seeking extraordinary protection to include a detailed description and/or representative sample of the information for which extraordinary protection is sought, state the specific relief requested and the grounds for seeking the relief, and advise all other parties of the request and the subject matter of the material at issue.¹ As the

¹ 4 CCR 723-1-1101(b)(I) – (III).

movant, Public Service must demonstrate that the information for which extraordinary protection is sought is highly confidential, that the protection afforded by the Commission's Rules governing confidentiality (Rules 1100 and 1101) provides insufficient protection for the information, and that the Company's proposed extraordinary protection, if adopted, will afford sufficient protection for the information.²

10. Public Service provides this information, as well as other supporting information required by Rule 1101(b), below.

A. Description of Highly Confidential Information (Rule 1101(b)(I))

11. Consistent with Rule 1101(b), the Company is requesting extraordinary protection for certain customer-specific information regarding individual customers who take service from Public Service, including billing, usage and other load information, and direct-assigned investment data.

12. The Highly Confidential Information at this time is contained in the workpapers of Mr. Trowbridge that support the weather normalized billing determinants and his revenue proof as set forth in Attachments AGT-1 and AGT-3 to his Direct Testimony, and in a single workpaper of Ms. Basquez supporting the CCOSS.

13. The Company is further requesting extraordinary protection for any other individual or disaggregated customer data for rate schedules with fewer than 15 customers or direct assigned investment that does not comport with the Commission's 15/15 Rule, as may be produced in discovery or otherwise introduced in this proceeding. The 15/15 Rule provides as follows:

² 4 CCR 723-1-1101(b)(IV).

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").³

B. Specific Relief Requested, and Why the Highly Confidential Information Is Entitled to Extraordinary Protection (Rule 1101(b)(II), (IV))

14. In addition to the protections generally afforded confidential information as specified in Commission Rule 1101, Public Service requests that the Commission issue an Order limiting 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.

15. Extraordinary protection is necessary for the above-described Highly Confidential Information in order to adhere to the Commission's rules regarding data privacy and disclosure of personal information⁴ and customer data.⁵ Disclosure of such information absent extraordinary protections would be in violation of these Commission rules and restrictions. Further, the Commission has consistently granted similar

³ 4 CCR 723-3-3033(b).

⁴ See 4 CCR 723-1-1105.

⁵ See 4 CCR 723-3-3025 through -3035.

requests by the Company for extraordinary protection of similar customer-specific information and data not comports with the 15/15 Rule, including in the Company's 2014 Electric Rate Case and 2019 Phase I Electric Rate Case.⁶

C. Advising Parties of the Request for Highly Confidential Treatment (Rule 1101(b)(III))

16. Public Service has e-filed a copy of this Motion, which includes a description of the highly confidential nature of the Highly Confidential Information. Therefore, all potential future parties will be advised of the subject matter of the information at issue.

D. Form of Non-Disclosure Agreement (Rule 1101(b)(V))

17. The specific form of non-disclosure agreements requested by Public Service are attached to this Motion as Attachment A (Subject Matter Expert) and Attachment B (Legal Counsel).

E. Affidavit (Rule 1101(b)(VI))

18. As required by Rule 1101(b)(VI), the affidavit of Ms. Brooke A. Trammell, Regional Vice President of Rates and Regulatory Affairs for XES, is attached to this Motion as Attachment C. In her affidavit, Ms. Trammell identifies the individuals who have had access to the Highly Confidential Information.

F. Filing Procedures (Rule 1101(b)(VII))

19. Rule 1101(b)(VII) requires the Company file the Highly Confidential Information as an exhibit prepared in a form that comports with Rule 1101(a), unless the subject information would be overly burdensome, impractical, or too sensitive for

⁶ See Proceeding No. 19AL-0268E, Decision No. C19-0621-I, at ¶ 36 (mailed July 23, 2019); see also Proceeding Nos. 14AL-0660E & 14A-0680E, Decision No. C14-1043, at ¶¶ 66, 71 (mailed Aug. 28, 2014).

disclosure. However, Rule 1101(e) further provides that “information which is subject to highly confidential protection and that is provided in response to discovery or in response to Commission staff audit shall not be filed with the Commission.”⁷ Here, the Highly Confidential Information will be provided through discovery as workpapers supporting Mr. Trowbridge’s and Ms. Basquez’s Direct Testimony. Accordingly, the Company does not provide these workpapers as an exhibit to this Motion.

G. Retention of Documents (Rule 1101(I))

20. Public Service requests that the Commission and all parties served destroy the Highly Confidential Information by shredding upon the conclusion of this proceeding and any related court proceedings.

IV. CONCLUSION

WHEREFORE, Public Service requests that the Commission: (1) find that the information and data described herein is highly confidential; and (2) issue an Order granting extraordinary protection for the above-described Highly Confidential Information, subject to the terms listed herein.

⁷ 4 CCR 723-1-1101(e).

DATED this 19th day of October, 2020.

Respectfully submitted,

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**ATTORNEYS FOR PUBLIC SERVICE
COMPANY OF COLORADO**

CERTIFICATE OF SERVICE

I hereby certify that on October 19, 2020 the foregoing document was filed with the Colorado Public Utilities Commission via e-filing and served on those parties shown on the Commission's Certificate of Service accompanying such filing.

By: /s/ Schuna Wright