

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF WYOMING

IN THE MATTER OF THE APPLICATION OF	)	
CHEYENNE LIGHT, FUEL AND POWER	)	
COMPANY d/b/a BLACK HILLS ENERGY FOR	)	Docket No. 20003-__-ET-25
AUTHORITY TO INCREASE ITS CARBON	)	(Record No. ____)
CAPTURE COMPLIANCE SURCHARGE TO	)	
1.43%	)	

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**PETITION FOR CONFIDENTIAL TREATMENT OF EXHIBIT 5**

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Pursuant to Chapter 2, Section 30 (Confidentiality of Information) of the Wyoming Public Service Commission’s Rules of Practice and Procedure, Cheyenne Light, Fuel and Power Company, d/b/a Black Hills Energy (“Cheyenne Light”) respectfully requests that the Wyoming Public Service Commission (“Commission”) issue an order granting confidential treatment for Exhibit 5.

**A. Statutory Support in Favor of Confidentiality Protection**

W.S. § 16-4-203 provides for the right of inspection, grounds for denial, access of news media and orders permitting or restricting disclosure exceptions. This statute provides the legal basis for protection from disclosure of confidential information submitted by a party to a governmental agency (“Custodian”). W.S. § 16-4-203(d)(v) identifies categories of records that are exempt from public disclosure: “[t]rade secrets, privileged information and confidential commercial, financial, geological or geophysical data furnished by or obtained from any person.”

**B. Rule and Regulatory Support in Favor of Confidentiality Protection**

The Commission’s rules and regulations also provide for the protection of confidential data submitted to the Commission. Chapter 2, Section 30 of the Commission rules and regulations provides as follows:

Upon petition, and for good cause shown, the Commission shall deem confidential any information filed with the Commission or in the custody of the Commission or staff which is shown to be of the nature described in Wyoming Statute § 16-4-203(a), (b), (d), or (g). All information for which confidential treatment is requested shall be treated as confidential until the Commission rules whether, and to what extent, the information shall be given confidential treatment.

The information contained in Exhibit 5 contains confidential commercial and financial data which fits squarely within the protection provided under Chapter 2, Section 30.

**C. Relevant Case Law Support in Favor of Confidential Protection.**

In *Sublette County Rural Health Care Dist. v. Miley*, 942 P.2d 1101 (Wyo. July 18, 1997)(WL 401323) (hereafter referred to as *Sublette County*), the Wyoming Supreme Court addressed confidential commercial data. In *Sublette County* the Wyoming Supreme Court looked to federal law under the Freedom of Information Act. *Id.* The Court noted the parallel language of Wyoming's statute and the federal statute, and found it is appropriate for the Court to examine persuasive authority, particularly pertinent federal cases and adopted the two-factor test as set forth in *National Parks and Conservation Ass'n v. Morton*, 498 F.2d 765 (D.C.Cir.1974). The *National Parks and Conservation Ass'n*, two-factor test protects information from disclosure under the Freedom of Information Act when the information is likely to either: (1) impair the government's future ability to obtain necessary information; or (2) cause substantial harm to the competitive position of the persons providing the information. *National Parks*, 498 F.2d at 770.

A review of Commission decisions also demonstrates that Petitions for Confidential Treatment are granted for a variety of reasons, including protection of commercial data.<sup>1</sup> In this

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<sup>1</sup> See, e.g., *In Re Cheyenne Light Fuel and Power*, Docket No. NG 3005-224-GA-17 (Record No. 14672)(2017)(natural gas supply agreements and other commercial data); *In Re Petition of Energy West et al*, Docket No.30011-73-GA12 et al (Record No. 13111)(2012) (data responses containing financial information); *In Re Joint Application of SourceGas Distribution et al* , for transfer of utility assets from MGTC to SourceGas Distribution (Docket No. 30003-49-GA-10 (2010) (Record No. 12484)(protective order for transfer of assets).

petition, Cheyenne Light is seeking protection of commercial and financial data included in Exhibit 5.

**D. Required Information**

As the entirety of Exhibit 5 contains confidential information, redaction of a portion is not practical. Therefore, Cheyenne Light is requesting that the entire document be granted confidential treatment. The support for confidential treatment is as follows:

**Confidential Exhibit 5:**

The invoices generally contain confidential banking information, pricing, employee names and rates and other terms related to competitive pricing from various vendors. Public disclosure of these terms would impair Cheyenne Light's commercial position and bargaining power in future negotiations with existing and potential vendors. The vendors have similar confidentiality interests which Cheyenne Light is obligated to protect.

For the reasons stated herein, Cheyenne Light respectfully requests the Commission enter an order pursuant to Chapter 2, Section 30 prohibiting the disclosure of the designated confidential information identified herein. In the event written notice of an intent to disclose is provided, Cheyenne Light requests the opportunity for a hearing prior to disclosure at which Cheyenne Light can defend the confidentiality of the information.

In order to facilitate its ongoing regulatory responsibility, the Commission may retain this confidential information subject to Chapter 2, Section 30(b)(iv).

Dated this 28th day of April, 2025.



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Jana Smoot White, #7-6044  
Associate General Counsel  
Black Hills Service Company  
7001 Mt. Rushmore Rd.  
PO Box 1400  
Rapid City, SD 57709  
Telephone: (605) 399-5059  
jana.white@blackhillscorp.com

**CERTIFICATE OF SERVICE**

I certify that on this 28th day of April, 2025, the foregoing document was filed in the  
docket and served on the following:

Wyoming Public Utilities Commission  
John Burbridge  
2515 Warren Avenue, Suite 300  
Cheyenne, WY 82002

Wyoming Office of Consumer Advocate  
2515 Warren Avenue, Suite 304  
Cheyenne WY 82002

  
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Jana Smoot White