

Decision No. R03-0017

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

DOCKET NO. 02S-516W

---

RE: THE INVESTIGATION AND SUSPENSION OF TARIFF SHEETS FILED BY  
CASCADE PUBLIC SERVICE COMPANY WITH ADVICE LETTER NUMBER 34-WATER.

---

**RECOMMENDED DECISION OF  
ADMINISTRATIVE LAW JUDGE  
MANA L. JENNINGS-FADER  
GRANTING MOTION TO WITHDRAW,  
PERMANENTLY SUSPENDING EFFECTIVE  
DATE OF TARIFFS, VACATING HEARING  
DATE, WAIVING RESPONSE TIME,  
AND CLOSING DOCKET**

---

---

Mailed Date: January 7, 2003

**I. STATEMENT, FINDINGS, AND CONCLUSION**

1. On July 22, 2002, Cascade Public Service Company (Cascade) filed Advice Letter No. 34-Water. The purpose of this filing was to increase the commodity rate and the tap fees charged by Cascade. The proposed effective date of the tariffs which accompanied Advice Letter No. 34-Water (tariffs) was October 1, 2002.

2. By Decision No. C02-1061 (mailed date September 27, 2002), the Commission suspending the proposed effective date of the tariffs, established an intervention period and procedural schedule, and set a hearing date of January 17, 2003.

3. By Decision No. R02-1165-I, the Administrative Law Judge (ALJ) addressed a letter from Cascade, dated October 3, 2002, in which Cascade sought Commission approval for an interim increase in its tap fee. That decision directed Cascade to file the required application with the Commission.

4. Staff of the Commission (Staff) intervened in this docket on October 23, 2002.
5. By Decision No. R02-1323-I the ALJ denied Cascade's motion to consolidate this proceeding with Docket No. 02F-565W.
6. By Decision No. R02-1328-I, among other things, the ALJ vacated the procedural schedule established by the Commission and established a new procedural schedule. The hearing date remained January 17, 2003.
7. By Decision No. R02-1383-I the ALJ set a public comment hearing in this docket. The public comment hearing was set for January 17, 2003, to follow the hearing in this matter.
8. By Decision No. R02-1382-I the ALJ denied Cascade's request to appear without legal representation. This decision was predicated on Cascade's failure to comply with the filing requirements of Decision No. R02-1328-I and on Cascade's failure to establish that it meets the requirements of § 13-1-127, C.R.S., and of Rule 4 *Code of Colorado Regulations* 723-1-21(b)(2).
9. On December 3, 2002, Cascade filed Advice Letter No. 34-Amended to change the proposed effective date of the tariffs. By Decision No. C02-1435 (mailed date December 23, 2002) the Commission modified the suspension of effective date of the tariffs. The Commission suspended the tariffs until May 1, 2003, or until further order of the Commission.

10. On December 19, 2002, Cascade filed its Motion to Withdraw and Response to Decisions R02-1381-I, R02-1382-I, and R02-1383-I (Motion). In the Motion Cascade states that it cannot proceed due to the expense of obtaining counsel.<sup>1</sup>

11. Response to the Motion was due January 3, 2003. From review of the Motion, it appears that Cascade did not serve a copy of the Motion on Staff.<sup>2</sup> Given the nature of the Motion, response time will be waived.

12. The Motion states good cause and will be granted. The effective date of the tariffs will be suspended permanently, the hearing date and the public comment hearing date will be vacated, and the docket will be closed.

13. In accordance with § 40-6-109, C.R.S., it is recommended that the Commission enter the following order.

## **II. ORDER**

### **A. The Commission Orders That:**

1. The Motion to Withdraw filed by Cascade Public Service Company is granted.
2. The effective date of the tariffs filed by Cascade Public Service Company with Advice Letter No. 34-Water and with Advice Letter No. 34-Water-Amended is permanently suspended.

---

<sup>1</sup> Cascade is a Colorado corporation (*see* Motion at 2), and it has not provided the required documentation to permit it to proceed without counsel in this matter. *See* Decision No. R02-1382-I. The Commission has no option but to require Cascade to obtain counsel in this proceeding. *See, e.g., Denver Bar Association v. Public Utilities Commission*, 391 P.2d 476 (Colo. 1964).

<sup>2</sup> Assuming that Cascade served the Motion on Staff (which is not shown from the Motion and its attachments), the time for response has run. Staff filed no response to the Motion.

3. The hearing scheduled for January 17, 2003, and the public comment hearing scheduled for January 17, 2003, are vacated.

4. Response time to the Motion to Withdraw filed by Cascade Public Service Company is waived.

5. Docket No. 02S-516W is closed.

6. This Recommended Decision shall be effective on the day it becomes the Decision of the Commission, if that is the case, and is entered as of the date above.

7. As provided by § 40-6-106, C.R.S., copies of this Recommended Decision shall be served upon the parties, who may file exceptions to it.

a) If no exceptions are filed within 20 days after service or within any extended period of time authorized, or unless the recommended decision is stayed by the Commission upon its own motion, the recommended decision shall become the decision of the Commission and subject to the provisions of § 40-6-114, C.R.S.

b) If a party seeks to amend, modify, annul, or reverse a basic finding of fact in its exceptions, that party must request and pay for a transcript to be filed, or the parties may stipulate to portions of the transcript according to the procedure stated in § 40-6-113, C.R.S. If no transcript or stipulation is filed, the Commission is bound by the facts set out by the administrative law judge; and the parties cannot challenge these facts. This will limit what the Commission can review if exceptions are filed.

8. If exceptions to this Recommended Decision are filed, they shall not exceed 30 pages in length, unless the Commission for good cause shown permits this limit to be exceeded.

(S E A L)



ATTEST: A TRUE COPY

Bruce N. Smith  
Director

THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

MANA L. JENNINGS-FADER

Administrative Law Judge

G:\oORDER\576T.doc:srs