Decision No. R14-0496

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 13A-0869E

IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO FOR AN ORDER APPROVING EXPENSES INCURRED FOR THE PERIOD JANUARY 2012 THROUGH DECEMBER 2012 THAT ARE RECOVERED THROUGH THE ELECTRIC COMMODITY ADJUSTMENT CLAUSE AND APPROVING THE CALCULATION OF 2012 SHORT TERM SALES MARGINS.

RECOMMENDED DECISION OF ADMINISTRATIVE LAW JUDGE ROBERT I. GARVEY GRANTING APPLICATION.

Mailed Date: May 9, 2014

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I. STATEMENT

1. On August 1, 2013, Public Service Company of Colorado (Public Service or Applicant), filed a Verified Application that seeks Commission approval of the 2012 fuel,

purchased energy, and purchased wheeling costs that Public Service collected through the Electric Commodity Adjustment (ECA) clause. That filing commenced this proceeding.

2. On August 5, 2013, the Commission issued its Notice of Application Filed (Notice). That Notice established an intervention period, which expired on September 4, 2013.

3. On September 3, 2013, Trial Staff of the Commission (Staff) timely filed its Notice of Intervention as of Right, Entry of Appearance, Notice Pursuant to Rule 1007(a) and Rule 1403(b), and Request for Hearing. In its filing Staff stated the following issues it intended to raise:

> a. Public Service Company of Colorado ("the Company") has generation resources with shared ownership. A key example is the Comanche Unit 3 which has significant ownership by both Intermountain Rural Electric Association and Holy Cross Energy. Considering the lower than expected availability of this particular generation facility, it is important to understand how the cost to provide replacement capacity and energy is allocated between retail and wholesale customers. A similar situation exists for the Craig and Hayden units;
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> b. Considering that the volatility in the price of natural gas has greatly decreased in recent years, and that the demand for coal has also decreased, is it appropriate to reconsider whether fuel adjustment clauses continue to be necessary or appropriate;
>
> c. The Electric Commodity Adjustment ("ECA") has become somewhat of a dumping ground for numerous costs and credits to the point that the descriptions of these occupy 4 full pages of tariffs. It may be appropriate to assess whether all of these measures continue to warrant recovery or credit through the ECA;
>
> d. Any and all other issues not raised herein that, after investigation and analysis, are worthy of consideration by the Commission, are in the public interest, and are likely to assist the Commission to render its decision in this proceeding.

4. On September 9, 2013, Public Service filed its Response to Trial Staff's Request for Hearing and Request to Limit Scope of Proceeding. In their Response, Public Service argued that issues b and c went beyond the scope of the annual ECA review. Public Service stated that

the instant annual ECA review proceeding was borne out of a Settlement Agreement approved by the Commission in Decision No. C06-1379 in Proceeding No. 06S-234EG issued December 1, 2006, and limited the scope of this proceeding.

5. On September 11, 2013, by minute order, the Commission referred this matter to an Administrative Law Judge (ALJ).

6. By Interim Decision No. R13-1197-I, issued on September 25, 2013, a prehearing conference was scheduled for October 7, 2013 and the scope of the proceeding was limited to the following: (1) whether the appropriate costs were included in the ECA for recovery; (2) whether these costs were prudently incurred; (3) whether the ECA methodology followed the Applicant's ECA tariff and the methodology approved by Decision No. C06-1379; (4) whether the calculations of the costs recovered through the ECA were correct; and (5) whether the Commission should approve the Applicant's calculation of the 2012 short-term sales margins that have been credited to the 2013 ECA Deferred Balance.

7. On October 2, 2013, Staff filed its Unopposed Motion to Reschedule Prehearing Conference and Request for Waiver of Response Time.

8. By Interim Decision No. R13-1237-I, issued on October 3, 2013, the prehearing conference was rescheduled for October 11, 2013.

9. On October 4, 2013, the Colorado Office of Consumer Counsel (OCC) filed its Motion to Intervene Out of Time and Entry of Appearance. The OCC stated that on September 17, 2013, 13 days after the intervention period ended in this proceeding, a 134-page report was released by Staff in Proceeding No. 13I-0215E. That report contained information that the OCC intended to use to address the appropriateness and prudence of generation costs incurred by Public Service.

10. At the prehearing conference held on October 11, 2013, Public Service stated that they did not object to the intervention out of time by the OCC.

11. By Interim Decision No. R13-1297-I, the intervention of the OCC was granted and a procedural schedule was adopted.

12. On November 22, 2013, Public Service filed its Unopposed Motion for Adoption of Modified Procedural Schedule. Public Service also waived the 210-day requirement for a Commission decision in the above captioned proceeding.

13. By Interim Decision No. R13-1471-I, issued on November 26, 2013, the modified procedural schedule was adopted and the waiver of the 210-day requirement for a Commission decision was acknowledged.

14. On December 20, 2013, the OCC filed its Unopposed Motion for Adoption of Modified Procedural Schedule.

15. By Interim Decision No. R13-1582-I, issued on December 24, 2013, the modified procedural schedule was adopted and an evidentiary hearing was scheduled for February 27 and 28, 2014.

16. At the designated time and place the evidentiary hearing was held. The ALJ heard testimony from Public Service witnesses Kurt Haeger,[1] Mark Fox,[2] John Welch,[3] and OCC witness Chris Neil.[4] Staff presented no witnesses. The pre-filed testimony of Public Service

[1] Mr. Haeger is the Managing Director of Resource Planning for Public Service. His written rebuttal testimony and exhibits are Hearing Exhibit No. 6.

[2] Mr. Fox is the General Manager, Power Generation for Public Service. His written rebuttal testimony and exhibits are Hearing Exhibit No. 8.

[3] Mr. Welch is the Director of Power Operations within Commercial Operations for Public Service. His written rebuttal testimony and exhibits are Hearing Exhibit No. 7.

[4] Mr. Neil is a rate/financial analyst for the OCC.

witnesses Dolores Basquez,[5] Scott E. Aaronson,[6] and Jeffrey D. Ishee[7] were admitted into evidence as Exhibits 1 through 3, and Confidential Exhibit 3-C, but they did not testify at the evidentiary hearing.

17. Hearing Exhibits No.1 through No. 10 and Confidential Exhibits 3-C and 5-C, were offered and admitted into evidence.

18. At the conclusion of the hearing, the evidentiary record was closed and the date to file Post Hearing Statements of Position was extended by one week. The ALJ took the matter under advisement.

19. On March 21, 2014, Public Service and the OCC separately filed their Post Hearing Statement of Position. Staff did not participate in the hearing and did not file a Post Hearing Statement of Position.

20. In reaching this Recommended Decision the ALJ has considered all arguments presented by the parties, including those arguments not specifically addressed in this Decision. Likewise, the ALJ has considered all evidence presented at the hearing, even if the evidence is not specifically addressed in this Decision.

II. FINDINGS OF FACT

21. The ECA is the mechanism that allows Public Service to collect its energy costs.

[5] Ms Basquez is a Principal Pricing Analyst in the Pricing and Planning Department for Public Service. Her written direct testimony and exhibits are Hearing Exhibit No. 1.

[6] Mr. Aaronson is the Manager for Commercial Accounting & Analysis for Public Service. His written direct testimony and exhibits are Hearing Exhibit No. 2.

[7] Mr. Ishee is Manager of Gas Supply and Planning for Public Service. His written direct testimony and exhibits are Hearing Exhibit No. 3.

22. The ECA that was in effect during 2012 was established by the Settlement Agreement dated October 20, 2006 in Proceeding No. 06S-234EG, approved by Commission Decision No. C06-1379 on December 1, 2006 as modified by Commission Decision No. C09-1446 in Proceeding No. 09AL-299E, on December 24, 2009 and the Settlement Agreement dated April 2, 2012 in Proceeding No. 11AL-947E, approved by Commission Decision No. C12-0494 on May 9, 2012.

23. The actual energy costs for Public Service's fuel, purchased energy, and purchased wheeling costs in 2012 are provided in Hearing Exhibits 1 and 2.

24. The OCC does not contest the accuracy of the figures in these charts.

25. Forced outage rate is the proportion of the time that a power plant is not generating power because of an unplanned outage.

26. One of Public Service's power plants is the Comanche Unit 3 in Pueblo Colorado.

27. The Comanche Unit 3 is a 750 MW Supercritical fossil fuel fired Steam Generating Unit that was designed and constructed in the late 2000s and went into service in the middle of 2010.

28. The Comanche Unit 3 is an Alstom Vertical Tube design, the first one constructed in the United States.

29. The Comanche Unit 3 is a load following unit which means that it is dispatched based on the energy demands of the electrical system rather than being base loaded around the clock.

30. Power plants the size of the Comanche Unit 3, have a "burn in"[8] period from one to five years.

31. In 2012, Comanche Unit 3 had 16 forced outage events that totaled 963 hours. A single water wall tube leak, accounted for 627 of the 963 outage hours, or 65 percent of the total number of hours.

32. The forced outage that lasted for 627 hours was caused by a water wall tube leak at the bottom of the boiler that occurred as a result of engineering design stresses where the tube was connected to the boiler. That stress caused the tube at the bottom of the boiler to rupture. As the tube rose through the boiler it bifurcated into two tubes. When the tube at the bottom of the boiler ruptured, it caused the flow through the tubes through the remaining height of the boiler to go away and those tubes overheated.

33. The forced outage that lasted 627 hours was due to an engineering design problem with a boiler.

34. The second biggest event was a tube leak in the superheat section of the boiler (a 138-hour event or 13 percent of the total). There was also an additional tube leak of 38 hours' duration, or 4 percent of the total. The three tube leaks accounted for over 80 percent of the outage hours in 2012.

35. In 2013 there were 12 forced outage events for 101 hours at Comanche Unit 3. The largest event lasting 33 hours.

[8] A burn in period is the period after a power plant first starts power generation where outage events are more prevalent as equipment failures occur and engineering/construction flaws are identified and repaired. These initial failures determine how the plant can operate with fewer equipment failures.

36. The forced outage rate at Comanche Unit 3 was 11.89 percent in 2012. *Hearing Exhibit 9.*

37. The Pawnee power plant located near Fort Morgan, Colorado, is a 500 MW sub-critical fossil fuel fired Steam Electric Generating Unit that was designed and constructed in the 1970s and went into service in 1981.

38. Pawnee was one of the first units in the country that was designed to fire Powder River Basin (PRB) coal. PRB Coal is a sub-bituminous coal that, in comparison to bituminous and anthracite class coals, has high moisture and ash content, and lower BTU/lb energy content. The ash of PRB coal is more reflective, and is ”stickier” than ash from bituminous and anthracite coals. Reflective ash that builds up on the radiant section of a furnace causes the heat released by combustion to reflect back into the furnace rather than being absorbed by the water walls. This leads to overheating in the convective passes of the boiler.

39. Pawnee is a load following unit which means that it is dispatched based on the energy demands of the electrical system rather than being base loaded around the clock. A load following unit is subject to increased operational stress due to the changing pressures and temperatures required to operate at low load as compared to high load.

40. Pawnee had 11 forced outage events in 2012 that totaled 677 hours of lost generation. There were 8 events, totaling 646 hours (95 percent of the total lost generation) due to tube leaks.

41. The forced outage rate at Pawnee was 8.06 percent in 2012. *Id.*

42. The Generating Unit Availability Database (GADS) of the North American Electric Reliability Council provides national average values for forced outage rates.

43. The GADS rate for forced outages in units similar to Comanche 3 for a five-year period from 2007 to 2011 was 5.14 percent. *Id.*

44. The GADS rate for forced outages in units similar to Pawnee for a five-year period from 2007 to 2011 was 5.66 percent. *Id.*

45. The average cost of coal per MWh in 2012 was $18.64. *Id.*

46. The average cost of natural gas per MWh in 2012 was $25.89. *Id.*

III. DISCUSSION AND CONCLUSIONS

A. Prudence

47. A definition of prudence, as related to the ECA, is not contained within the Commission's rules or State statutes.

48. Both Public Service and the OCC argue that the Gas Commodity Adjustment (GCA) as set forth in *Rule 4607(c) of the Rules Regulating Gas Utilities and Pipeline Operators, 4 Code of Colorado Regulations (CCR)* 723-4 is analogous to the ECA at issue and they believe it should be the prudence standard in this proceeding. The prudence standard used in GCA proceedings is as follows:

> Prudence review standard. For purposes of GCA recovery, the standard of review to be used in assessing the utility's action (or lack of action) in a specific gas purchase year is: whether the action (or lack of action) of a utility was reasonable in light of the information known, or which should have been known, at the time of the action (or lack of action).

49. The undersigned ALJ agrees that the GCA is analogous to the ECA and the prudence definition found in *Rule 4607*(c), 4 *CCR* 723-4, is the appropriate definition to use for prudence in this proceeding.

B. Burden of Proof

50. Public Service argues that the burden of proof in this proceeding is ultimately borne by Public Service. *Public Service Statement of Position p. 7.* Although Public Service bears the ultimate burden of proof, Public Service argues that utility expenditures have a presumption of prudence "and it is up to a party contesting costs to make a *prima facie* case of imprudence." *Id. citing to Commission Decision No. C12-0159.*[9]

51. The OCC argues that the burden of proof provided within the GCA should be used since the parties agree to use the prudence standard contained within the rules concerning the GCA. The burden of proof contained within the rules concerning the GCA is as follows:

> Burden of proof. If the Commission elects to hold a hearing, the utility shall have the burden of proof and the burden of going forward to establish the reasonableness of actual gas commodity and upstream service costs incurred during the review period.
>
> *citing to Rule 4607*(d), 4 *CCR* 723-4

52. The OCC also looks to Commission *Rule 1500*, 4 *CCR* 723-1, for the justification that Public Service bears the burden of proof in the prudency review. Commission *Rule 1500*, 4 *CCR* 723-1 states the following:

> The burden of proof and the initial burden of going forward shall be on the party that is the proponent of a decision, unless previously agreed to or assumed by a party. The proponent of the order is that party commencing a proceeding, except that in the case of suspension of a proposed tariff, price list, or time schedule, the regulated entity shall bear the burden of proof.

53. The OCC argues that since Public Service bears the burden in the proceeding, that the OCC need not "demonstrate imprudence." *OCC Statement of Position p. 3*

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[9] In Decision No. C12-0159 in Proceeding No. 11A-325E issued February 14, 2012, the Commission found that expenditures to install emission controls at the Pawnee unit would be given a "general presumption of prudence" when the issue of the prudence of those expenditures was taken up in a future rate case. The Commission also stated that the utility carries the burden of proof and that the general presumption of proof is rebuttable.

54. The parties agree that Public Service bears the ultimate burden of proof. The parties differ as to what if any burden is on the intervenor in this prudency review.

55. The instant proceeding is an application. The burden of proof and the burden of going forward are on the Applicant in any application.

56. The initial burden is met by the Applicant with the filing of testimony and exhibits in support of the application. After this filing, the burden of going forward, not the burden of proof, shifts to the intervenor to contest the prudency of any or all of the actions of the Applicant. An Intervenor may not present a blanket objection to the prudency of fuel, purchased energy, and purchased wheeling costs. An Intervenor must state the specific actions that are not prudent. If the evidence is sufficient to bring into question the prudence of actions taken or not taken by the utility, the burden of going forward then shifts back to the utility to show that the questioned action or lack of action was prudent.

57. The initial burdens of Public Service were met by the filing of testimony and exhibits in support of the application. The OCC must provide sufficient evidence that the expenditures of Public Service were not prudent to meet the burden of going forward.

C. The Argument of the OCC

58. In his Supplemental Answer testimony,[10] Mr. Neil contends that $3.0 million of ECA costs be disallowed. Mr. Neil comes to this conclusion based on the forced outage rates at the Comanche 3 and Pawnee units compared to a national average.

[10] In his original Answer testimony, Mr. Neil compared the projected capacity factor from Public Service's 2011 Electric Resource Plan (ERP) to the actual capacity in 2012 at Comanche 3 and Pawnee. Mr. Neil's original testimony concluded that a total of 6.12 million dollars be excluded from recovery in the ECA. After this testimony was filed, Mr. Neil had a meeting with Public Service. After the meeting, Mr. Neil retracted his initial recommendation after determining that due to coal cycling and failure to account for planned outages, that the ERP did not provide an accurate capacity factor to disallow recovery through the ECA. Mr. Neil filed supplemental answer testimony and abandoned his original justification for contesting the prudence of Public Service actions and submitted a new justification.

59. The following methodology was used to determine this disallowance. The forced outage rate at the Comanche 3 and Pawnee units was subtracted from the national average[11] of forced outages over a five-year period in units with a similar MW capacity. That number was then multiplied by the capacity of the unit and the total number of hours in 2012. This calculation provided is the total of megawatt hours of loss at each unit. The number of lost megawatt hours was then multiplied times the average cost of coal-fired generation per megawatt hour and natural gas fired generation per megawatt hour during 2012. The difference of these two calculations is the amount of recovery that Mr. Neil proposes should not be allowed. *Hearing Exhibit 4, p. 8.*

60. Without identifying any actual imprudent actions of Public Service, OCC believes that this difference between actual forced outage rate at Comanche 3 and Pawnee and the forced outage rate at the comparable group in itself brings into question the prudency of Public Service actions.

61. At the start of the hearing, Mr. Neil testified that in his calculations provided with his supplemental testimony, he failed to remove the hours during 2012 when the units were out of service for planned maintenance from the total hours in 2012. Mr. Neil then presented *Exhibit 9* to replace the chart found in Mr. Neil's testimony on page 8 of *Exhibit 5*. At the hearing Mr. Neil proposed the disallowance be reduced to $2.76 million. *Hearing Transcript p. 11, l.3-17*.

62. The undersigned ALJ finds it disconcerting that the OCC has, at three separate times prior to the hearing revised the recommended amount of costs to be disallowed.[12] This

[11] Mr. Neil relied upon the GADS data found in Exhibit 5, p. C-7.

[12] The last adjustment was made at the start of the hearing.

inability to settle on what a proper disallowance should be or even the best methodology to determine the disallowance is extremely troubling.

63. Mr. Neil's argument is based exclusively on the difference between the forced outage rate at these two units[13] and a national average for similar sized units.

64. When asked by the undersigned ALJ if the largest forced outage at Comanche 3, one that comprised 65 percent of the forced outage hours, was due to a lack of prudence on the part of Public Service, Mr. Neil stated it could have been part of the "burn in" process

> Q. From that incident, do you know of anything that Public Service should have done … they did do that they shouldn't have done or didn't do that they should have done?
>
> A. Can you refer me to his exhibit page?
>
> Q. It's going to be on page 12
>
> A. Okay
>
> Q. I have it down as page 12 of Mr. Fox's testimony.
>
> A He says that was due to a single water wall tube leak. Elsewhere, you know, just from that description, I don't have a terrific idea of why – of what that would be caused by. As I recall, elsewhere, they say that it took them a while to figure out how to keep the water canons running well and make sure that they kept blowing junk off the tubes. So it could be that this is related to not figuring out how to run the water walls correct -- I mean the water canons correctly. You know, I'm not sure that's the reason, but, you know, if you get two -- putting those two statements by them together, that might have been the you know, whether they should have figured out how to run the water canons properly earlier is kind of, you know -- I think they should have; but, you know, that's part of this burn-in process that took them a while -- they have got to have some outages to figure out how they should have been running the water canon and finding out they weren't running them well; but it's not clear from that statement what's causing that and what's the reason.

[13] Mr. Neil's calculations are limited to these two units. No testimony or calculations were made concerning any other unit.

Q And I'm going to -- I think you just stated there that could be part -- do you think that could be part of a burn-in process?

A Yes, they described that figuring out how to run the water canons was part of the burn-in process and they had higher outages until they figured that out.

Hearing Transcript p. 39, l.13-25, p.40, l. 1-17.

65. The burn in period is a time when a unit is first put on-line and outages are expected and useful in determining any engineering or construction issues that may exist in the unit. Forced outages are to be expected at a higher rate during the burn in period. Further bolstering the view that this forced outage was due to the burn in is the fact that forced outages at Comanche Unit 3 were reduced in 2013 to only 101 hours after 963 hours in 2012.

66. If this forced outage at Comanche 3, which constituted 65 percent of the total forced outage hours is eliminated, the forced outage rate falls below the national average for similar sized units.

67. There are also problems with the methodology used to recommend a disallowance of millions of dollars.

68. The OCC did not provide a list of the units used to create the comparable group. In addition to not knowing the actual units that comprised this group, some additional factors that are unknown include; the total number of units in the group, the age of the units, the location of the units, weather condition fluctuations, the number of Alstom Vertical Tube design units, the median forced outage rate of the comparable group, or if any of the forced outages were due to transmission issues. The only information provided is the total percentage number of the forced outage rate at similarly sized units and no data to justify that number or show how or why that it is relevant to forced outages at Comanche 3 or Pawnee.

69. As part of their analysis the OCC used the average cost of coal per megawatt hour versus the average cost of natural gas per megawatt hour, but did not know if natural gas was used in place of coal during the forced outages.

Q. And I'm going to turn you back to the new -- what did he call Exhibit 9?

A. Yes.

Q. In this, you basically state that all of the forced outages that when coal wasn't being used that natural gas was; is that not correct?

A. That's how I calculated it.

Q. Do you know if natural gas was in fact used in each one of those forced outages?

A. No. It's more of an average. I did look at, you know, how often did -- when you say Comanche or Pawnee was down, did the coal plants pick some of that up? And I was disappointed at how little of the time the coal plants had higher generation. And that was one of the reasons I complained about the rest of the coal plants because, you know, when Comanche has significantly lower capacity factors, that means there ought to be lots of opportunity for the other coal plants to pick up that generation and they really didn't. So I felt that most of the time – and then I did look at, you know, month by month in the staff's report it shows pictures of graphs of what plants were operating. And I can show you, for example, in January, there's this humungous spike in Fort St. Vrain's generation when -- when Comanche 3 was out for a good part of January. So, you know, the specifically what units were taken out -- the taking on the generation and clearly the gas-fired units picked up much of the generation -- not all of it, of course, but much of it.

Q. But you are putting it all on gas.

A. Yes.

Hearing Transcript p.28, l. 11-25, p.29, l.1-18

70. In addition, the average cost of coal and natural gas during the entire year of 2012 was used and not the cost of each resource when there was a forced outage.

Q. And that's my next question: The average coal cost and the average gas cost that you used are for the average for the year, correct?

A. That's correct.

Q. Not -- could you not pinpoint when these forced outages were, you would say, I knew they were in November; what was the cost of coal in November during this forced outage; and what was the cost of gas -- natural gas at that time?

A. Yes. And that would be another way to do this calculation. For example, they said they have a lower average gas cost. And like I said, there was a big outage in -- in Comanche 3 in January and gas prices were over $3 in January. So I could have gone through there and said, okay, here's the outage, here's the outage. What happened, you know, the number -- the average number I got seemed fairly reasonable, fairly in the ballpark. You know, is it plus or minus a few dollars? Probably. But it's a reasonable number to go with.

Hearing Transcript p.30, l. 4-23.

71. Throughout the proceeding as additional information was learned by the OCC, the recommended disallowance has been lowered. It is troubling that this analysis is so simplistic when the information to make a more accurate calculation was available but was not used. It leads one to the belief that if a more complete analysis was done that the OCC may have concluded that their recommended disallowance was incorrect again.

72. When recommending a disallowance of anywhere from $2.7 million to 6.1 million in fuel, purchased energy and purchased wheeling costs, it would be hoped that that number would be as exact as possible and not just “fairly in the ballpark.”

73. Finally, even if the OCC had gone to the trouble of presenting an accurate analysis and provided the data used to compile an analysis that showed the forced outage rates at Comanche 3 and Pawnee were greater than the national average of forced outage rates, that alone would not be sufficient to show Public Service’s actions were not prudent.

74. Mr. Neil gave no testimony as to any action that should have been taken by Public Service or any action taken by Public Service that should have been taken.

75. When given the opportunity to state what actions or inactions taken or not taken by Public Service led to the higher than average forced outage rate, Mr. Neil could provide no answer. *Hearing Exhibit 8, p. MAF-2.*

76. The OCC failed to present any evidence that Public Service acted imprudently in regards to fuel, purchased energy, and purchased wheeling costs.

77. There was no correlation shown between the forced outages and any imprudent actions or inactions by Public Service. There was only the naked conclusion that the forced outages could only be due to imprudent actions, no evidence was presented linking the two.

78. Public Service has met its burden to show that its actions were prudent in regards to fuel, purchased energy, and purchased wheeling costs as it relates to the ECA.

79. In accordance with § 40-6-109, C.R.S., the ALJ recommends that the Commission enter the following order.

IV. ORDER

A. The Commission Orders That:

1. The Verified Application that seeks Commission approval for expenses incurred for the period January 2012 through December 2012 that are recovered through the Electric Commodity Adjustment clause and calculation of 2012 short-term sales margins is granted.

2. No more than 30 days after this Recommended Decision becomes the Decision of the Commission, if that is the case, Public Service Company of Colorado shall file a new advice letter and tariff on not less than two business days' notice. The advice letter and tariff shall be filed as a new advice letter proceeding and shall comply with all applicable rules. In calculating the proposed effective date, the date the filing is received at the Commission is not included in

the notice period and the entire notice period must expire prior to the effective date. The advice letter and tariff must comply in all substantive respects to this Decision in order to be filed as a compliance filing on shortened notice.

3. 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.

4. 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.

5. Responses to exceptions shall be due within seven calendar days from the filing of exceptions.

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.

6. 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

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ROBERT I. GARVEY

____
Administrative Law Judge