

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23L-0465G

IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO FOR AN ORDER AUTHORIZING IT TO REVISE ITS GAS COST ADJUSTMENT TO BE EFFECTIVE OCTOBER 1, 2023, ON LESS THAN STATUTORY NOTICE.

**COMMISSION DECISION GRANTING APPLICATION
AND ADDRESSING PROTEST**

Mailed Date: September 28, 2023

Adopted Date: September 27, 2023

I. BY THE COMMISSION

A. Statement

1. On September 15, 2023, Public Service Company of Colorado (Public Service or the Company) filed a verified application requesting a Commission order authorizing it, without a formal hearing and on less-than-statutory notice (LSN), Sheet No. 50H of its Colo. PUC No. 6 Gas tariff, resulting in an increase to its existing natural gas rates now on file with the Commission.

2. On September 18, 2023, the Colorado Office of the Utility Consumer Advocate (UCA) filed a protest to the LSN application. UCA clarifies that its objections pertain only to the method that Public Service has been, and proposes to continue, using to calculate the Gas Storage Inventory Cost (GSIC) component of the GCA. UCA requests that the method to calculate the GSIC component, the increase in the GSIC component, and the associated GCA tariff sheets be suspended and set for an evidentiary hearing.

3. By this Decision, the Commission deems the LSN application complete and grants the application, consistent with the discussion below. Public Service is authorized to place into effect on October 1, 2023, a revised Gas Cost Adjustment (GCA) as set forth on Sheet No. 50H as attached to this Decision as Appendix A.

4. Consistent with the discussion below, the Commission also concludes that UCA's allegations of non-compliance with previous Commission's decisions are serious and that UCA's policy arguments as raised in its protest are worthy of further consideration if presented and addressed in a separate complaint proceeding.

B. Fourth Quarter 2023 Revision of the Gas Cost Adjustment (GCA)

5. Public Service's LSN application for authority to increase rates is made pursuant to § 40-3-104(2), C.R.S., and Rule 4 *Code of Colorado Regulations* (CCR) 723-1-4109(b)(II).

6. Public Service requests authorization to revise its present GCA pursuant to its GCA Tariff as set forth in Sheet Nos. 50 through 50I. Public Service further states that the GCA effective period to which this GCA applies is covered by the Gas Purchase Plan filed by Public Service on June 1, 2023, in Proceeding No. 23P-0287G.

7. This application constitutes Public Service's Quarterly GCA filing, under the Quarterly GCA mechanism provided for in the Stipulation and Agreement reached by the Staff of the Colorado Public Utilities Commission, UCA, and Public Service (Parties) pursuant to Decision No. C09-0596 in Proceeding No. 08A-095G issued June 9, 2009.

8. Public Service states in the LSN application that the purpose of this proposed fourth quarter 2023 revision to the GCA is to reflect the adjusted level of the Gas Commodity

Cost, the Deferred Gas Cost, the Upstream Service Cost, and the Gas Storage Inventory Cost as defined in the GCA Tariff. The Gas Commodity Cost reflects natural gas costs to be charged to Public Service by its numerous producers and suppliers during the period October 1, 2023, through December 31, 2023, based on forecasted sales quantities, producer and supplier contract pricing terms, and market indices. The Deferred Gas Cost reflects the Company's Account No. 191 balance adjusted for unbilled revenue as of August 31, 2023. The Upstream Service Cost reflect costs anticipated to be charged to Public Service by its pipeline service providers for the period October 1, 2023, through September 30, 2024. The GSIC is calculated based on the projected revenue requirement associated with its investment in gas storage inventory for the period October 1, 2023 through September 30, 2024.

9. In accordance with the Commission's rules governing the GCA, 4 CCR 723-4600, *et seq.*, Public Service' Quarterly GCA includes Attachments Nos. 1 through 9. Public Service has filed under seal GCA Attachment Nos. 1, 2, 3, 5, and 6 containing material that it claims is confidential, proprietary, and market-sensitive, as well as a public version of the exhibit with the confidential material redacted, pursuant to Rule 1100(c) of the Rules of Practice and Procedure, 4 CCR 723-1,

10. The proposed change to Sheet No. 50H is Attachment No. 9 to the application and affects Public Service's customers in its Colorado certificated areas on file with the Commission.

11. As explained in the LSN application, Public Service's natural gas supplies for sale to its residential, commercial, industrial, and resale customers, are purchased from numerous producer and suppliers located inside and outside of Colorado. The rates and charges incident to these purchases are established through contracts between the Company and the various producer and suppliers.

12. Public Service anticipates that the adjustment in the GCA requested herein will bring future gas cost recovery amounts more closely in line with the predicted future price of gas. The natural gas costs reflected in this filing are based on the New York Mercantile Exchange (NYMEX) October, November, and December 2023 daily Settlement Price for natural gas on the first business day of the month or September 1, 2023. The NYMEX price for each of those three months was adjusted for the basis differentials applicable to regional indices used by the Company for its gas purchases.

13. Purchased gas supplies are either delivered directly into Public Service's natural gas pipeline system from wellheads, gathering systems, gas processing plant interconnections, or through several interstate pipeline and/or storage facilities with which the Company is directly connected. The transportation of these gas supplies is made pursuant to service agreements between Public Service and upstream pipeline service providers based upon the Company's system requirements for the various pipeline services, such as gathering, storage, and transportation. These upstream pipeline service providers include: Colorado Interstate Gas Company; Front Range Pipeline; Tallgrass Interstate Gas Transmission; Southern Star Central Gas Pipeline, Inc.; and Red Cedar Gathering Company.

14. Public Service affirms that the GCA is currently not impacted by gas transportation commodity discounts on its system as all discounted transportation commodity rates are in excess of the Current Gas Cost portion of the transportation charge (*i.e.*, gas balancing costs).

15. Pursuant to the Quarterly GCA Stipulation reached by the Parties in compliance with Decision No. C09-0596 in Proceeding No. 08A-095G, the filing of this application has been or will be brought to the attention of Applicant's affected customers by means of a legal notice in

a newspaper of general circulation, and a first of the month display advertisement. In addition, Public Service, at its option, may continue press releases, call center voice activation messaging, and timely postings to its internet website, as long as such forms of notice and communication reasonably and effectively continue to provide information to customers.

16. Due to the changes in the Gas Commodity Cost and Deferred Gas Cost, the net effect of the revision in the GCA for the fourth quarter of 2023 is estimated to increase GCA revenues by approximately \$66.2 million.

C. UCA Protest and Public Service's Response

17. In its protest, UCA specifically objects to Public Service using a proxy interest rate plus an income tax gross-up to calculate the GSIC. UCA states that the rate of return for the GSIC in the GCA Application is 7.76 percent and argues that this figure exceeds the Company's current weighted average cost of capital (WACC) established by the Commission in Proceeding No. 22AL-0046G (Gas Rate Case), the Company's most recent base rate proceeding, or 6.7 percent. UCA states that the Commission determined in that rate case that the GSIC should reflect a return on gas storage inventories at the cost of short-term debt, or 2.3 percent, and not the WACC.

18. UCA alleges that Public Service's GCA filings in December 2022 to effectuate the changes in the GSIC were not in compliance with the Commission's decisions in Proceeding No. 22AL-0046G. UCA argues that when modifying its GCA Tariff pursuant to the Commission's decisions in the Gas Rate Case, the Company did not use its cost of short-term debt but instead used a proxy rate tied to the monthly interest rate equal to the average of the daily rates for 3-month commercial paper. UCA further argues that the Commission did not authorize the use of an income tax gross-up for the GSIC, yet the Company inappropriately includes an income tax

gross-up which significantly increases the costs recovered on stored gas inventories. UCA also that the Commission asserted in the Gas Rate Case that “a key feature of ratemaking for gas utilities in Colorado is that they earn no return on gas commodity costs.”

19. UCA alleges over recovery from ratepayers for the three prior GCA quarterly periods of approximately \$2 million and objects to the GSIC being included in the fourth quarter 2023 revision to the GCA for effect October 1, 2023.

20. On September 25, 2023, Public Service filed a response to UCA’s protest. Public Service argues that there are several serious procedural defects in the protest and that the UCA’s claims and argument are without merit.

21. In terms of procedures, Public Service argues that the protest ignores the LSN application process, under which the Company’s application was filed. For example, the Company contends that the suspension and hearing UCA seeks on the GCA Tariff are inappropriate because the application and Sheet No. 50H were not filed under the file-and-suspend process governed by §§ 40-6-111 and 40-3-111, C.R.S. The Company likewise argues that the protest fails to explain any lawful rationale or legal authority for the Commission to set for hearing and suspend only the GSIC elements of the GCA rates set forth on Sheet No. 50H, while allowing the other GCA rate elements to go into effect on October 1, 2023.

22. Public Service goes on to argue that the protest is procedurally defective because four of the GCA tariffs UCA wants to challenge in its requested hearing were lawfully effective tariffs, approved by the Commission in four previous GCA LSN application proceedings. The Company asserts that it is axiomatic that no party, including UCA, can challenge lawfully effective tariffs in this Proceeding by asking the Commission to set the pending Sheet No. 50H for hearing and suspend its effective date. The Company states that the previously GCA tariffs

can only be challenged in another forum, when such issues can be addressed in which the UCA would bear the burden of proving its challenge.

23. In terms of the merits of UCA's protest, Public Service argues that the GSIC component within the GCA since January 1, 2023, has complied with the Commission's decisions in the Gas Rate Case. Public Service states that there is no dispute that the Commission authorized the Company to use the cost of short-term debt for return on gas storage inventories. Public Service argues that a careful examination of the Commission's decisions in the Gas Rate Case reveals that they do not require Public Service to use its own cost of short-term debt. Public Service further argues that the adjustment of the return on gas storage inventories for income taxes was not newly-added language to Sheet No. 50C but was instead retained as a "pre-existing concept" from the sheet in the GCA Tariff effective on September 5, 2011, pursuant to Decision No. C11-0946 in Proceeding No. 10AL-063G. The Company further states that there is no discussion in the Commission's decisions in the Gas Rate Case addressing the use of a gross-up for income taxes in the GSIC calculations.

D. Findings and Conclusions

24. Public Service is an operating public utility subject to the jurisdiction of this Commission and is engaged in, *inter alia*, in the purchase, transmission, distribution, transportation, and resale of natural gas in various certificated areas within the State of Colorado.

25. The Commission expects Public Service to negotiate the lowest prices for supplies of natural gas that are consistent with the provisions of the Natural Gas Policy Act of 1978, 15 U.S.C. §§ 3301-3432 and applicable federal regulations, or determinations made under applicable federal regulations. CIG, TIGT, and Southern Star are natural gas companies under the provisions of the Natural Gas Act, as amended, and the rates and charges incidental to the

provision of the various pipeline delivery services to Public Service are subject to the jurisdiction of the Federal Energy Regulatory Commission. This Commission has no jurisdiction over the pipeline delivery rates of CIG, TIGT, and Southern Star.

26. The application contains all materials required by the Commission's rules and is complete.

27. The Commission finds good cause to allow the proposed increase on less-than-statutory notice. The GCA rates set forth on Sheet No. 50H as presented in Attachment No. 9 to the LSN application have been calculated in accordance with the Company's GCA Tariff in effect at the time of the filing of the application. Approval of the fourth quarter 2023 revision to the GCA for effect October 1, 2023, is likewise consistent with the Commission's rules governing the GCA. Public Service has further satisfied the requirements of the Quarterly GCA Stipulation reached by the Parties in compliance with Decision No. C09-0596 in Proceeding No. 08A-095G.

28. We decline to take up in this Proceeding UCA's allegations and arguments regarding the calculation of the GSIC as set forth on Sheet No. 50C. Several of Public Service's arguments regarding the procedural defects of UCA's protest have merit. However, UCA's allegations of non-compliance with the Commission's decision in the Gas Rate Case are serious and its policy arguments are worthy of further consideration by the Commission. We urge UCA to present them in a complaint. Doing so will allow the Commission to effectively hear the claims.

II. ORDER

A. The Commission Orders That:

1. The application filed by Public Service Company of Colorado (Public Service) on September 15, 2023, for a Commission order authorizing a revision to Sheet No. 50H of its Colo. PUC No. 6 Gas tariff, without a formal hearing and on less-than-statutory notice, is deemed complete and granted.

2. Public Service is authorized to file, on two days' notice, the tariff sheet setting forth the Gas Cost Adjustment (GCA) as attached to this Decision as Appendix A, to be effective on or after its effective date of October 1, 2023.

3. Consistent with the discussion above, the request from the Colorado Office of the Utility Consumer Advocate (UCA) for a hearing on and the suspension of certain components of Public Service's GCA is denied. UCA may raise the allegations and policy arguments put forward in its protest filed on September 18, 2023, in a separate complaint pleading.

4. The 20-day period provided for in § 40-6-114, C.R.S., within which to file applications for rehearing, reargument, or reconsideration begins on the first day following the effective date of this Decision.

5. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
September 27, 2023.**

(S E A L)



ATTEST: A TRUE COPY

Rebecca E. White,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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MEGAN M. GILMAN

TOM PLANT

Commissioners