

Decision No. C23-0465

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23V-0241G

IN THE MATTER OF THE PETITION OF PUBLIC SERVICE COMPANY OF COLORADO FOR A FULL PERMANENT VARIANCE FROM THE REQUIREMENTS THAT IT FILE A GAS PERFORMANCE INCENTIVE MECHANISM APPLICATION.

COMMISSION DECISION GRANTING TEMPORARY WAIVER

Mailed Date: July 18, 2023
Adopted Date: June 14, 2023

I. BY THE COMMISSION

A. Statement

1. This Decision grants Public Service Company of Colorado (Public Service or the Company) a temporary waiver from the Gas Performance Incentive Mechanism (GPIM) filing deadline in paragraph 4602(g) and rule 4607 of the Commission's Rules Regulating Gas Utilities, 4 *Code of Colorado Regulations* (CCR) 723-4, consistent with the discussion below.

B. Discussion

2. On May 15, 2023, Public Service filed a Petition for a Full Permanent Variance from Gas Utility Rules 4602(g) and 4607 and request for Shortened Notice and Intervention Period (Petition). Public Service seeks the variance from the rules, which require it to file a GPIM in order to establish a gas cost benchmark using market indices and apply a risk sharing mechanism. The GPIM is an incentive mechanism that shares the risk of gas commodity costs between the utility and its customers.

3. Rule 4602(g) requires in part that “Utilities with more than 500,000 full-service customers shall file an initial GPIM application pursuant to rule 4607 within 60 days of the effective date of these rules in advance of the 2023-2024 heating season for a period extending through the gas purchase year ending in June 2025,” The due date for Public Service to file its first GPIM application is June 13, 2023, which is 60 days after the April 14 effective date of the modified GCA rules.

4. Rule 4607 requires GPIM applications to contain a list of specific information, including a GPIM benchmark for commodity gas purchases, GPIM commodity gas volumes and cost, upstream supply costs, the methodology for calculating a risk sharing amount, and a back casting analysis based on a minimum of the most recent three years of historical data.

5. Public Service seeks a variance to the requirement for a GPIM due to the passage of Senate Bill (SB) 23-291, which adds § 40-3-120, C.R.S., which requires investor-owned gas utilities to file, no later than November 1, 2023, a gas price risk management plan that includes proposals for leveling or reducing the volatility of fuel costs that are recovered pursuant to the utility’s gas cost adjustment filings. Under the statute, the plan is to include “a maximum per-month fuel cost that accounts for price fluctuations based on seasonality and can be automatically recovered through the gas cost adjustment mechanism, and may include other elements such as physical hedging, financial hedging, fuel storage, or long-term contracting.”

6. Public Service argues that it will have to evaluate and present several elements that are redundant or that overlap the requirements of the GPIM application in complying with the new statutory requirements.

7. By Decision No. C23-0334-I, issued on May 18, 2023, the Commission granted, in part, Public Service’s request to shorten the notice and intervention period for the Petition.

8. The Commission issued a Notice of Petition Filed on May 30, 2023 setting an intervention deadline of June 10, 2023.

9. On May 30, 2023, the Office of the Utility Consumer Advocate (UCA) filed a Notice of Intervention of Right and Entry of Appearance. UCA states that it does not oppose the granting of a temporary waiver until the Commission approves, amends, or denies Public Service's gas price risk management plan pursuant to § 40-3-120, C.R.S. UCA contends that neither the Commission nor any parties will be in a position to determine if the gas price risk management plan includes the requirements that would have been included in the GPIM filing due June 13, 2023 until Public Service files its gas price risk management plan.

10. On June 2, 2023, Public Service modified its request for a full and permanent variance of the rules as set forth in the Petition by filing an Unopposed Motion for a Temporary Waiver of the Gas Performance Incentive Mechanism Filing Deadline Under Gas Utility Rules 4602(g) and 4607. With respect to conferral, Public Service states that UCA does not object to the granting of the motion.

11. Public Service states that given the deadline to file its GPIM by June 13, 2023, which will have passed by the time the Commission addresses its Petition for Permanent Waiver and the hardship and equity issues this presents for the Company, it requests that a temporary waiver of Rules 4602(g) and 4607 be granted and in effect until the Commission issues an administratively final written decision on the merits of the pending Petition for Variance. Public Service also requests that response time to the Motion be waived since the only intervenor in this proceeding, UCA, does not object to the Motion.

12. UCA is the only intervening party to this matter. No other requests for intervention were filed.

C. Findings and Conclusions

13. Paragraph 1403(a) of Rule 4 CCR 723-1-1403 of the Commission's Rules of Practice and Procedure states that the Commission may determine any petition without a hearing and without further notice if the petition is uncontested or unopposed. Public Service's request for a temporary waiver of the GPIM filing deadline under Rules 4602(g) and 4607 is unopposed.

14. We find good cause, pursuant to Rule 1003, to grant Public Service's motion for temporary waiver from the GPIM filing deadline in Rules 4602(g) and 4607, *nunc pro tunc* to June 13 2023 and waive response time to the motion.

II. ORDER

A. The Commission Orders That:

1. The Unopposed Motion for a Temporary Waiver of the Gas Performance Incentive Mechanism Filing Deadline Under Gas Utility Rules 4602(g) and 4607 (Motion) filed by Public Service Company of Colorado on June 2, 2023, is granted, *nunc pro tunc* from June 13, 2023, consistent with the discussion above.

2. Response time to the Motion is waived.

3. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
June 14, 2023.**

(S E A L)



ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Rebecca E. White".

Rebecca E. White,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ERIC BLANK

MEGAN M. GILMAN

TOM PLANT

Commissioners