

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

DOCKET NO. 02S-409G

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RE: THE INVESTIGATION AND SUSPENSION OF TARIFF SHEETS FILED BY PUBLIC SERVICE COMPANY OF COLORADO WITH ADVICE NO. 591 – GAS AS AMENDED.

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**ORDER DENYING MOTION FOR DETERMINATION  
THAT NO NEW TARIFFS MUST BE FILED**

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Mailed Date: March 21, 2003  
Adopted Date: February 26, 2003

**I. BY THE COMMISSION:**

**A. Statement**

1. On January 27, 2003, Public Service Company of Colorado (Public Service) filed its Motion for Determination that No New Tariffs Must be Filed and to Dismiss Docket (Motion). Staff of the Public Utilities Commission (Staff) timely filed a Response in Opposition to the Motion on February 10, 2003. Public Service then filed its Motion for Leave to Reply to Staff's Response and for Waiver of Response Time, with the accompanying response, on February 18, 2003. Now being duly advised in the premises, we deny Public Service's Motion.

**B. Discussion:**

2. In compliance with Decision No. R02-202 (Mailed Date of February 18, 2002), Docket No. 02F-005E, Public Service filed Advice Letter Nos. 591-Gas and 1370-Electric to set forth the rules and regulations under which it proposed to bill landlords, owners, and other agents for service when rental properties become vacant. Public Service withdrew the proposed tariffs and promised that it would file new tariffs by December 16, 2002. Public Service then requested, and the Commission granted, a six-week extension to file tariffs.

3. In its Motion, Public Service states that it has now decided that it will not seek to hold landlords or owners who are not customers of record responsible for energy usage at their rental properties during periods of vacancy, obviating the need to file tariffs. Public Service moves for a Commission determination that there is now no need to file gas and electric tariffs.

4. Staff opposes this Motion. Staff states that Public Service will hold landlords and owners of rental property responsible for energy usage at vacant premises if the landlord or owner places service directly in his or her name, or otherwise instructs Public Service to continue service at the subject property. *See* Public Service's Motion, page 3, footnote 1. Further, Staff takes issue with Public Service's Motion on page 3, footnote 2, which states "owners and landlords have the right to receive notice prior to discontinuance by completing a third party notification form, and owners and landlords also have the right to have service left on at a premises (and be billed for it) through a premises instruction form." Staff argues that the premises instruction form was at the heart of Decision No. R02-202, and the decision directed Public Service to make this form part of its tariffs. Staff also raises concerns with Public Service's assertion that it will make "economically efficient decisions" whether to terminate service on a case-by-case basis.

5. In its reply to Staff's response, Public Service states that Staff reads Decision No. R02-202 too broadly. Public Service argues that the concern in that docket was Public Service's attempt to bill landlords and owners for electric service when they were not customers, and language in the decision related to the premises form was mere dicta. Public Service also argues that Staff's concern about the general body of ratepayers absorbing the cost of electricity and gas supplied to vacant property was ruled to be outside the scope of the docket by the Administrative Law Judge.

6. We deny the Motion. We find that Public Service's intended service arrangements with landlords and owners, as discussed in the two footnotes on page 3 of Public Service's Motion, fall within the intended scope of Decision No. R02-202. We disagree with Public Service's interpretation that the decision's requirement to file tariffs was limited only to the billing of landlords and owners for electric service when they did not apply for service. Decision No. R02-202 identifies an area where Public Service's tariffs did not adequately describe the terms and conditions of providing service, and the decision properly requires Public Service to file tariffs to address the provision of service to landlords and owners. Public Service's current intent not to seek to hold landlords or owners who are not customers of record responsible for energy usage at their rental properties during periods of vacancy does not completely address the concerns discussed in Decision No. R02-202. Notably, the representations made in footnotes 1 and 2 of the Motion indicate that Public Service will continue to charge landlords or owners of vacant premises for energy usage under certain circumstances. As such, Public Service must specify in its tariff the terms and conditions for such charges.

7. We therefore deny Public Service's Motion. We direct Public Service to file new tariffs within 30 days of the effective date of this order.

## **II. ORDER**

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

1. The Motion for Leave to File Reply by Public Service Company of Colorado and for Waiver of Response Time is granted.

2. The Motion for Determination that No New Tariffs Must be Filed and to Dismiss Docket by Public Service Company of Colorado is denied. Public Service Company of Colorado

shall file new tariffs within 30 days of the effective date of this Order consistent with the above discussion.

3. This Order is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING  
February 26, 2003.**

(S E A L)



**ATTEST: A TRUE COPY**

**Bruce N. Smith  
Director**

THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

**POLLY PAGE**

**JIM DYER**

Commissioners

CHAIRMAN GREGORY E. SOPKIN  
RECUSED HIMSELF.