

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 99S-293G

RE: THE INVESTIGATION AND SUSPENSION OF TARIFF SHEETS FILED BY PUBLIC SERVICE COMPANY OF COLORADO WITH ADVICE NO. 550 – GAS.

**DECISION APPROVING STIPULATION AND DENYING
MOTION FOR WAIVER OF RESPONSE TIME AS MOOT**

Mailed Date: June 1, 2003
Adopted Date: May 2, 2003

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for consideration of a Stipulation and Agreement Regarding Hedging Tools (Hedging Stipulation) filed by Public Service Company of Colorado (Public Service) and the Staff of the Colorado Public Utilities Commission (Staff) (collectively referred to as Joint Movants). The Colorado Office of Consumer Counsel (OCC) is not a party to this proceeding, however, the OCC is a signatory party to the Hedging Stipulation and, as indicated in paragraph 15 thereof, supports Commission approval of the Hedging Stipulation. Now being duly advised in the matter, we approve the Hedging Stipulation.

B. Background

2. This docket was initiated pursuant to Decision No. C99-580, mailed June 9, 1999, wherein the Commission suspended and set for hearing the tariff changes proposed by Public Service in conjunction with Advice Letter No. 550-Gas. In that filing, Public Service proposed to revise its Gas Cost Adjustment (GCA) tariff to allow it to include the costs of financial derivatives in the definition of “Actual Gas Cost” and thereby authorize Public Service’s

recovery of the costs of such derivatives from its natural gas customers through the GCA. Public Service requested this authorization in order to commence using fixed for float swaps and the purchase of futures contracts on the New York Mercantile Exchange (NYMEX) in its efforts to mitigate the risk of volatility in gas prices passed on to Public Service's gas customers through the GCA.

3. In Decision No. R99-1094, mailed October 8, 1999, the Commission granted the authorization requested in Advice Letter No. 550-Gas and approved a Stipulation and Settlement Agreement (Stipulation) between Public Service and Staff setting forth various terms and conditions governing Public Service's use of these financial derivatives. The Stipulation provided for numerous safeguards to assure that Public Service's use of financial derivatives was for a proper purpose and did not result in unreasonable costs. As one of these safeguards, the Stipulation provided for the expiration of the authorizations granted in Decision No. R99-1094 on October 29, 2002, unless the Commission by subsequent order approved an extension of that sunset date.

4. On July 2, 2002, Public Service, Staff, and OCC entered into a Stipulation and Agreement regarding Sunset Provision (Sunset Stipulation). In the Sunset Stipulation the parties agreed that the authorizations granted Public Service in this docket should continue for an additional period beyond the sunset date of October 29, 2002, to and including April 30, 2006. The Commission approved the Sunset Stipulation in Decision No. C02-910, mailed August 23, 2002.

5. The Hedging Stipulation is the result of negotiations between representatives of Public Service, Staff, and OCC concerning the expansion of the authorizations granted Public

Service in this docket to include the use of costless collars and call options consistent with the terms and conditions set forth in the Hedging Stipulation. The Joint Movants point out that, along with fixed-for-float swaps and NYMEX futures contracts, the use of call options and costless collars to hedge against large price swings have become common and widely accepted in the industry.

6. This Commission recently adopted an amendment to the GCA Rules (4 *Code of Colorado Regulations* (CCR) 723-8) in Docket No. 01R-346G (Decision No. C02-181, mailed February 26, 2002), requiring Colorado gas utilities to detail in their Gas Purchase Plans the measures they have considered or will consider to reduce customers' risks of gas price volatility for the applicable Gas Purchase Year and clarifying that "[c]osts related to gas price volatility risk management for regulated gas supply may be included for recovery through the GCA, if allowed by tariffs, subject to the same scrutiny and prudence review standards as other gas-related costs."

C. Stipulation

7. In the Hedging Stipulation the parties agree that the authorizations granted and safeguards imposed by the Commission in this proceeding in Decision No. R99-1094, as extended in duration by Decision No. C02-910, still apply and should be expanded to authorize the use by Public Service of two additional types of financial instruments -- costless collars and call options -- in its efforts to mitigate gas price volatility. The parties also agree that a change to Sheet No. 50 of Public Service's Colorado PUC No. 6 -- Gas Tariff reflecting the terms of this stipulation is necessary.

8. The Stipulation makes clear that the parties agree that the findings and conclusions made by Judge Kirkpatrick in Decision No. R99-1094 granting the authorizations to

Public Service are still applicable to the use of swaps and NYMEX futures contracts, as originally considered in this docket, as well as to the use of costless collars and call options. The parties agree that Public Service should be permitted to use these hedging tools in carrying out its Gas Price Volatility Management (PVM) Plan in order to provide Public Service additional flexibility to most effectively and efficiently mitigate gas price volatility now through April 30, 2006. In connection with the expanded authorizations, Public Service should have the opportunity to recover its reasonable costs associated with the use of costless collars and call options as part of its Gas PVM Plan, in addition to the current authorization in connection with swaps and NYMEX futures contracts.

II. DISCUSSION

9. The Commission agrees with the parties that price volatility management is crucial given the recent history of gas prices. Gas price spikes have had a large impact on consumers and utilities in recent years. Utility efforts to mitigate the risks of these price swings has become, and will likely continue to be, a fundamental component of natural gas sales service. Therefore it is important for Public Service to be able to use the tools contained in the Stipulation to mitigate the risk of price volatility. Further, the Commission also acknowledges that the expansion of authorizations granted to Public Service contained in the proposed Stipulation is consistent with the Commission's policies on recovery of costs related to gas price volatility risk management underlying the changes to the GCA Rules, 4 CCR 723-8, as promulgated in Docket No. 01R-346G. The Commission agrees with the parties that the Stipulation is just and reasonable.

III. ORDER

A. The Commission Orders That:

1. The Stipulation submitted by Public Service Company of Colorado, the Staff of the Public Utilities Commission, and the Office of Consumer Counsel on April 18, 2003, is approved.

2. Public Service Company of Colorado is directed to file compliance tariff sheets, in the same form as contained in Appendix A to the Hedging Stipulation, on not less than one day's notice.

3. The parties' request that response time be waived is denied as moot.

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 after the Mailed Date of this Decision.

5. This Order is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
May 2, 2003.**

(S E A L)



ATTEST: A TRUE COPY

**Bruce N. Smith
Director**

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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Commissioners