

Decision No. C03-0877

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 02S-315EG

RE: THE INVESTIGATION AND SUSPENSION OF TARIFF SHEETS FILED BY PUBLIC SERVICE COMPANY OF COLORADO ADVICE LETTER NO. 1373 - ELECTRIC, ADVICE LETTER NO. 593 - GAS, AND ADVICE LETTER NO. 80 - STEAM.

**ORDER DENYING APPLICATION FOR REHEARING,
REARGUMENT, OR RECONSIDERATION**

Mailed Date: August 8, 2003

Adopted Date: July 23, 2003

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for consideration of the Application for Rehearing, Reargument, or Reconsideration (RRR) to Decision No. C03-0670 filed by Public Service Company of Colorado (Public Service or Company) on July 16, 2003. In Decision No. C03-0670, we approved with modifications the Settlement Agreement (Settlement) between the parties. In its Application, Public Service objects to our order requiring the Company to flow back to ratepayers, through the electric Earnings Test, 100 percent of the difference if actual pension costs during 2004 through 2006 are less than the level of pension costs used to calculate the revenue requirement approved as part of the Settlement. Public Service argues that by requiring the Company to flow back to ratepayers any difference over actual Electric Department pension costs incurred in the future, the Commission has upset the just and reasonable result reached through the process of negotiating the Settlement. The Company also contends that this modification of the Settlement disregards the give-and-take process the parties went through to reach a settlement.

2. The Company further contends that the modification is particularly troubling in light of the possibility that it could be in an under-earning situation during 2004 to 2006. As Public Service explains, under the modification it could be required to return monies to customers even if, as a result of increases in expenses other than pension costs, it is not earning its authorized rate of return.

3. Finally, the Company contends that the Commission's order regarding pension costs is too harsh. The Application for RRR suggests that a more appropriate means of addressing the extraordinary treatment of the 2003 pension expenses in the Settlement would be to simply clarify that the Commission's approval of this *pro forma* adjustment here does not signal any change in established ratemaking principles regarding out-of-period *pro forma* adjustments in future cases.

B. Discussion

4. We deny the Application for RRR. Our reasoning on this issue in Decision No. C03-0670 (pages 28 through 31) addresses all of the Company's arguments. Generally, we observed there that the Settlement's proposed treatment of pension expenses violated the known and measurable principle in ratemaking; it included an out-of-period *pro forma* adjustment for pension costs beyond one year past the end of the test year in the revenue requirement. As such, we determined, it was necessary and appropriate to create a safeguard to prevent future overearnings directly due to this unique adjustment.

5. Furthermore, the Company noted in its Application for RRR that the evidence presented at hearing establishes little likelihood that Public Service will experience a "windfall" due to the inclusion of the pension cost adjustment in the revenue requirement. If this proves to be correct, the Company will not be affected by our modification of the Settlement. In any

event, we conclude that our modification has not "upset" the balance achieved by the parties in the Settlement.

6. We reiterate that the safeguard of requiring the Company to return to ratepayers 100 percent of excess Electric Department pension cost recovery for years 2004, 2005, and 2006 is needed to protect ratepayers should pension costs decline in the near term. Should pension costs remain high, then there should be no impact to the Company.

II. ORDER

A. The Commission Orders That:

1. The Application for Rehearing, Reargument, or Reconsideration filed by Public Service Company of Colorado on July 16, 2003 is denied.

2. This Order is effective on its Mailed Date.

B. **ADOPTED IN COMMISSIONERS' WEEKLY MEETING July 23, 2003.**

(S E A L)



ATTEST: A TRUE COPY

Bruce N. Smith
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

GREGORY E. SOPKIN

POLLY PAGE

JIM DYER

Commissioners

