

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 03A-286G

IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO FOR AN ORDER APPROVING ITS REFUND PLAN, AUTHORIZING IT TO CREDIT THE COST OF GAS FOR A SUPPLIER'S REFUND RECEIVED AND THE FURTHER DISTRIBUTION OF SAID REFUND.

NOTICE OF HEARING

Mailed Date: September 9, 2003

Adopted Date: August 27, 2003

I. BY THE COMMISSION

A. Statement

1. Public Service Company of Colorado (Public Service or Company) filed its Verified Application for Approval of Refund Plan on July 7, 2003. The Application proposes to refund to ratepayers approximately \$2,862,975 by crediting that amount to the Company's Deferred Gas Cost Account (Account No. 191) as of September 30, 2003, and to "carve-out" a contribution to the Colorado Energy Assistance Foundation (CEAF) in the amount of approximately \$390,406. Now being duly advised in the matter, we set the Application for hearing before the Commission to consider a number of questions concerning the Company's proposed refund plan.

2. The amounts to be credited to Account No. 191 and to be contributed to CEAF under the Application are monies refunded to Public Service by Colorado Interstate Gas Company (CIG)--CIG is one of the Company's pipeline service providers--plus interest on the refunded amounts, pursuant to an order by the Federal Energy Regulatory Commission. In essence, these amounts represent overcharges by CIG to Public Service for the period

October 2001 through September 2002. Notably, those overcharges were flowed-through to the Company's ratepayers under its Gas Cost Adjustment mechanism. As such, ratepayers are legally entitled to the monies refunded to Public Service by CIG. We further note that the plan proposed in the Application is not designed to refund the specific overcharges paid by individual ratepayers of the Company, nor does the carve-out for CEAF represent the specific amount which CEAF might receive under § 40-8-101(2), C.R.S. We set the Application for hearing to investigate the propriety of the Company's proposals.

3. Public Service shall appear at the hearing scheduled below to explain its proposals. The Company should be prepared to address the following questions and related matters:

1. Concerning the proposed 12 percent carve-out for CEAF:

a. How does the carve-out break down between the estimated undistributed refund (CIG rate case settlement) and voluntary customer contributions (Public Service's CEAF solicitation)?

b. What evidence justifies the use of the 12 percent carve-out as a proxy for the 90 percent undistributed refund balance cap that may be contributed to CEAF (*i.e.*, has Public Service performed any empirical analysis to show that the 12 percent carve-out would likely not exceed the amount specified in § 40-8-101(2), C.R.S.)?

2. Concerning the remaining 88 percent of the CIG refund to be credited to Account No. 191:

a. With two exceptions, the Commission has adhered to the policy that specific customers who were overcharged should be given a refund. The two exceptions involved extraordinary circumstances (*i.e.*, a huge under-recovered 191 balance or remoteness in time when monies became available for refund). No such circumstances exist here. Why should the Commission deviate from the matching principle that the specific customers who paid the overcharges should get the refunds?

b. If the only answer to the preceding question is administrative inconvenience/cost of direct refunds, the Company should provide evidence why the inconvenience and/or cost is so significant that it justifies departing from the matching principle.

c. Given Colorado case law (*Colorado Office of Consumer Counsel v. Public Service Company*, 877 P.2d 867 (Colo. 1994)) that a refund must be held in trust for customers who were overcharged, why would it be legal to credit the CIG refund monies to Account No. 191, when that would mean that specific customers would not necessarily receive the full amount of refunds due to them, and customers who left or leave the system will not get any refund?

II. ORDER

A. The Commission Orders That:

1. Hearing is set in this matter at the following time and place:

DATE: September 22, 2003

TIME: 9:00 a.m.

PLACE: Colorado Public Utilities Commission
Hearing Room A
1580 Logan St., OL2
Denver, Colorado

Public Service Company shall appear for the above-stated purposes.

2. This Order is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
August 27, 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