

Decision No. C03-1385

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 03M-516E

IN THE MATTER OF ADVICE NO. 1403-ELECTRIC FILED BY PUBLIC SERVICE COMPANY OF COLORADO WITH RESPECT TO THE ANNUAL REVISION OF PAYMENTS MADE TO QUALIFYING FACILITIES WITH A DESIGN CAPACITY OF BETWEEN 10 KW AND 100 KW.

**DECISION GRANTING APPLICATION
FOR APPROVAL OF AN
ALTERNATIVE FORM OF NOTICE**

Mailed Date: December 12, 2003
Adopted Date: December 10, 2003

I. BY THE COMMISSION

A. Statement, Findings, and Conclusions

1. On December 1, 2003, Public Service Company of Colorado (PSCo) filed Advice Letter 1403 – Electric to update the Energy Payment Rate and the Capacity Payment Rate to be used during 2004 for payments to qualifying facilities with a design capacity of greater than 10 KW but not more than 100 KW pursuant to Commission Decision No. C84-635 in Investigation and Suspension Docket Nos. 1603 and 1604. As part of Advice Letter 1403 – Electric, PSCo provided notice of the filing by publishing notice in the Legal Classified Sections of *The Denver Post* using the same public notice that is required of Less-than-Statutory Notice (LSN) filings even though PSCo did not file an LSN application in conjunction with the filing of Advice Letter 1403 – Electric.

2. By Rule 4 *Code of Colorado Regulations* (CCR) 723-1-41.5.3, a fixed utility that has filed an LSN application may provide notice by publishing the application in a newspaper

having general circulation, as defined in Rule 4 CCR 723-1-4(b)(10). In this case, PSCo did not file an LSN application.

3. Any utility that makes changes (not on an LSN basis) in rates is required, pursuant to § 40-3-104(c)(I), C.R.S., to provide notice by one of the following methods:

- a) Publication of a notice in each newspaper of general circulation in each county in which the public utility provides service, which notice shall be four columns wide and eleven inches high stating plainly the changes and shall be published once each week for two successive weeks during the first twenty days of the thirty-day period prior to the effective date of the increase or change. If notice is given by publication, public utilities other than those providing intrastate telecommunications services pursuant to section 40-15-104 (1) shall also be required to include, with each regular billing statement mailed to affected customers during the first regular billing cycle following the filing of the application for an increase or other change, a bill insert containing the same information contained in the notice by newspaper publication;
- b) Mailing of a notice to each affected customer of the public utility during the first twenty days of the thirty-day period prior to the effective date of the increase or change;
- c) Inclusion of an insert in the bill mailed to each affected customer of the public utility during a regular billing cycle not later than the twentieth day of the thirty-day period prior to the effective date of the increase or change; or
- d) Upon application by the public utility, such other manner as the commission may prescribe.

4. Staff of the Public Utilities Commission contacted PSCo on December 2, 2003, to inform PSCo that its notice was deficient pursuant to § 40-3-104(c)(I), C.R.S.

5. On December 5, 2003, PSCo filed an application requesting approval of an alternative form of notice that will apply to PSCo's annual filings for changes in the payments made to qualifying facilities with a design capacity of between 10 KW and 100 KW.

6. PSCo states in its application that although PSCo views the filing of Advice Letter 1403 - Electric as a compliance filing for which no public notice is required, PSCo files this

application to request approval of an alternative form of notice, pursuant to § 40-3-104(c)(I)(D), C.R.S., for Advice Letter 1403 - Electric and all future annual filings made pursuant to Commission Decision No. C84-635 to change the payment rates to qualifying facilities with a design capacity greater than 10 KW but not more than 100 KW. PSCo requests in this application the following manner of notice:

- a) File the change with the Commission and keep the filing open for public inspection.
- b) Within 3 days of the filing with the Commission, publish the notice in a newspaper of general circulation, such as The Denver Post.
- c) Serve a copy of the filing on all qualifying facilities interconnected to PSCo's electric system that will be affected by the rate change by depositing the filing in the United States mail on the date of the filing. For the filing made on December 1, 2003, PSCo requests that it be permitted to serve the qualifying facilities by mail no later than December 9, 2003.

7. PSCo states in its application that good cause exists for the alternative form of notice requested by the application. PSCo states that the only issues open for debate with respect to PSCo's annual filing are whether PSCo has properly applied the method already approved by the Commission and that this alternative method of notice is designed to reach the persons who are likely to be interested in checking PSCo's calculation.

8. Good cause having been shown, we will approve PSCo's proposed alternative form of notice pursuant to § 40-3-104(c)(I)(D), C.R.S., for Advice Letter 1403 – Electric and all future annual filings made pursuant to Commission Decision No. C84-635 that change the payment rates to qualifying facilities with a design capacity greater than 10 KW but not more than 100 KW. We will also grant PSCo's request that it be permitted to serve the qualifying facilities notice of the filing of Advice Letter 1403 – Electric by mail no later than December 9, 2003.

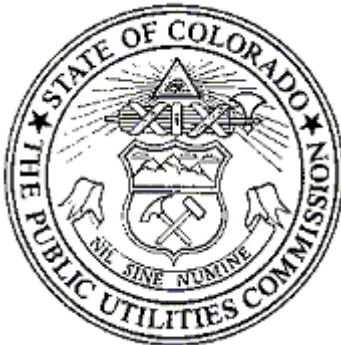
II. ORDER**A. The Commission Orders That:**

1. The application by Public Service Company of Colorado, pursuant to § 40-3-04(c)(I)(D), C.R.S., to provide an alternative form of notice as described above is approved for the filing of Advice Letter 1403 – Electric and for all future annual filings pursuant to Commission Decision No. C84-635 to change the payment rates to qualifying facilities with a design capacity greater than 10 KW but not more than 100 KW.

2. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
December 10, 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