

Decision No. R03-0150

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 02F-565W

ALLAN AND KATHY CUNNINGHAM, *ET AL.*,

COMPLAINANTS,

V.

CASCADE PUBLIC SERVICE,

RESPONDENT.

**RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE
KEN F. KIRKPATRICK
ACCEPTING STIPULATION
WITH CLARIFICATION**

Mailed Date: February 7, 2003

I. STATEMENT

1. This complaint was filed on October 21, 2002, and the Commission issued its Order to Satisfy or Answer. The hearing was originally scheduled for December 10, 2002. However, shortly before the hearing the Complainants, the Respondent Cascade Public Service Company (Cascade), and the assigned Administrative Law Judge (ALJ) held a telephone conference. The parties represented to the ALJ that a Stipulation in principle had been reached that resolved the dispute between them. However, time was needed to reduce it to writing as well as have all the Complainants sign the Stipulation. Based on this representation, the ALJ vacated the hearing.

2. The Stipulation was filed in counterparts by the individual complainants, with the last Complainant filing a signed Stipulation on February 6, 2003.

II. FINDINGS AND CONCLUSIONS

3. This proceeding is a follow-up to Decision No. C99-510, entered in Dockets Nos. 99F-021W and 99F-022W involving the same parties. By Decision No. C99-510, Respondent Cascade was ordered to replace the Hammond service line in Phase 4 of the Pipeline Improvement Program. The complaint notes that Phase 4 has been completed but the Hammond Line has not been replaced. Therefore this complaint was filed to compel the Respondent to replace the Hammond Line in accordance with Decision No. C99-510.

4. The Stipulation obligates Cascade to commence replacement of the Hammond Line by June 2003. If excess funds accumulate in the replacement account prior to June 2003 replacement will begin sooner. Cascade will keep the lead complainants, Alan and Kathy Cunningham, notified of the amount of money in the replacement account. Cascade will also immediately start flushing the Hammond Line on a weekly basis as ordered in Decision No. C99-510.

5. The Commission encourages negotiated settlements to contested proceedings. The parties have negotiated a settlement they believe satisfies their respective interests. The ALJ finds and concludes that the settlement is in the public interest and it should be accepted.

6. In accordance with § 40-6-109, C.R.S., it is recommended that the Commission enter the following order.

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

1. The Stipulation entered into by the parties to this proceeding is accepted. The Stipulation, attached to this Order as Appendix A, is incorporated into the Order as if fully set forth. Cascade Public Service Company shall commence replacement of the Hammond Line no later than June 2003. Cascade Public Service Company shall immediately start flushing the Hammond Line on a weekly basis.

2. The hearing set for December 10, 2002 is vacated.

3. This Recommended Decision shall be effective on the day it becomes the Decision of the Commission, if that is the case, and is entered as of the date above.

4. As provided by § 40-6-109, C.R.S., copies of this Recommended Decision shall be served upon the parties, who may file exceptions to it.

a) If no exceptions are filed within 20 days after service or within any extended period of time authorized, or unless the decision is stayed by the Commission upon its own motion, the recommended decision shall become the decision of the Commission and subject to the provisions of § 40-6-114, C.R.S.

b) If a party seeks to amend, modify, annul, or reverse basic findings of fact in its exceptions, that party must request and pay for a transcript to be filed, or the parties may stipulate to portions of the transcript according to the procedure stated in § 40-6-113, C.R.S. If no transcript or stipulation is filed, the Commission is bound by the facts set out by the administrative law judge and the parties cannot challenge these facts. This will limit what the Commission can review if exceptions are filed.

5. If exceptions to this Decision are filed, they shall not exceed 30 pages in length, unless the Commission for good cause shown permits this limit to be exceeded.

(S E A L)



ATTEST: A TRUE COPY

Bruce N. Smith
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

KEN F. KIRKPATRICK

Administrative Law Judge