

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 03A-549E

IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO FOR AN ORDER APPROVING EXPENSES INCURRED FOR THE PERIOD JANUARY 2002 THROUGH DECEMBER 2002 THAT ARE RECOVERED THROUGH THE INCENTIVE COST ADJUSTMENT.

**RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE
MANA L. JENNINGS-FADER
GRANTING UNOPPOSED MOTION,
GRANTING UNOPPOSED APPLICATION
PURSUANT TO MODIFIED PROCEDURES,
VACATING PROCEDURAL SCHEDULE AND
HEARING DATE, AND CLOSING DOCKET**

Mailed Date: June 2, 2004

I. STATEMENT

1. On December 22, 2003, Public Service Company of Colorado (PSCo or Applicant) filed its verified Application (Application)¹ for approval of the expenses incurred from January 1, 2002 through December 31, 2002 and reflected in PSCo's Incentive Cost Adjustment (ICA). PSCo also submitted the Direct Testimony and Exhibits of David A. Wolaver,² of Charles E. Anderson,³ and of Kurtis J. Haeger.⁴

2. On December 29, 2003, the Commission issued its Notice of the Application, which gave public notice of the Application.

¹ The Affidavit of Ronald N. Darnell, filed on May 7, 2004, verified the contents of the Application.

² The Affidavit of David A. Wolaver, filed on May 17, 2004, verified the contents of this submission.

³ The Affidavit of Charles E. Anderson. Wolaver, filed on May 17, 2004, verified the contents of this submission.

⁴ The Affidavit of Kurtis J. Haeger, filed on May 7, 2004, verified the contents of this submission.

3. Holy Cross Energy and Staff of the Commission (Staff) intervened in this matter. Staff is the only active intervenor. *See* Decision No. R04-0183-I.

4. Pursuant to the procedural orders issued by the undersigned Administrative Law Judge (ALJ), Staff filed its answer testimony on April 30, 2004. Hearing in this matter is scheduled for June 15 through 17, 2004.

5. The verified Answer Testimony of Sharon L. Podein stated Staff's recommendation "that the Commission approve the ICA expense included in PSCo's application." *Id.* at page 2, lines 8-9.

6. Based on this statement, the Application, and its direct testimony, PSCo filed a Motion to Approve Application and to Vacate Hearing (Motion).⁵ Staff joined the Motion, which is unopposed. The Motion states good cause, and granting the Motion will not prejudice any party. The Motion will be granted.

7. The Application is uncontested and now may be processed under the modified procedure, pursuant to § 40-6-109(5), C.R.S., and Rule 4 *Code of Colorado Regulations* 723-1-24, without a formal hearing.

8. In accordance with § 40-6-109, C.R.S., the ALJ now transmits to the Commission the record and exhibits of this proceeding along with a written recommended decision.

⁵ The Motion was filed on May 7, 2004, and supplemented on May 17, 2004.

II. FINDINGS AND CONCLUSION

9. PSCo is a jurisdictional utility which, for its electric operations, has had in place for a number of years a Commission-approved ICA.⁶ The Application seeks Commission approval of the collection of a portion of the calendar year 2002 fuel, purchased energy, and purchased wheeling expense through the ICA rider now in effect.

10. PSCo filed this Application pursuant to the 2002 ICA Settlement Agreement approved by the Commission. *See* Decision No. C02-0609. That decision, *inter alia*, spread recovery of PSCo's calendar year 2002 fuel, purchased energy, and purchased wheeling expense over a 34-month period;⁷ required true-ups; and continued the obligation of PSCo to file an annual application for review of the costs it recovers through the ICA.

11. In accordance with established ICA review procedures, PSCo filed a new ICA tariff to go into effect 30 days after filing; those tariffs are now in effect. In December 2003 PSCo filed the Application, which commenced the audit and review of the expenses recovered through the ICA now in effect.⁸ Staff performed an audit;⁹ found no items that should be excluded from recovery; and recommended that the Commission approve the ICA costs included in the Application.

12. The 2002 ICA Settlement Agreement also required PSCo to provide specified additional information with its ICA filings. It appears that, pursuant to that settlement

⁶ The PSCo ICA has been extended and has changed over the course of its existence. *See* Decisions No. C96-1235, No. C00-0393, No. C02-0609, and No. R03-0987.

⁷ The collection of these expenses, which are the ICA deferred balance, will occur from June 1, 2002, through March 31, 2005.

⁸ The expenses are subject to Commission disallowance.

⁹ For a detailed description and discussion of the Staff audit, *see* Exhibit SLP-1 to Answer Testimony of Sharon L. Podein.

agreement, Applicant provided data and information in the testimony and exhibits filed with the Application.¹⁰

13. Based on the testimonies and exhibits filed in this proceeding, the ALJ finds and concludes that the Application, which is now unopposed, should be granted. The calendar year 2002 fuel, purchased energy, and purchased wheeling expense now being recovered through PSCo's ICA should be approved.

14. Because the Application is unopposed and will be granted, a hearing and further procedural schedule in this matter are unnecessary. Granting the Motion to Vacate Hearing will not prejudice Staff, which joined in that motion. The Motion to Vacate Hearing will be granted, and the hearing scheduled for June 15 through 17, 2004, will be vacated. The remainder of the procedural schedule established in Decisions No. R04-0226-I and No. R05-0392-I will be vacated.

15. In accordance with § 40-6-109, C.R.S., the ALJ recommends that the Commission enter the following order.

III. ORDER

A. The Commission Orders That:

1. The Motion to Approve Application is granted.
2. The Application filed by Public Service Company of Colorado for the approval of the fuel, purchased energy, and purchased wheeling expense incurred by Public Service

¹⁰ The ALJ makes no determination about the sufficiency of the data and information provided. Staff did not address this question in its answer testimony. *See* Answer Testimony of Sharon L. Podein.

Company of Colorado from January 1, 2002 through December 31, 2002, and reflected in Public Service Company of Colorado's Incentive Cost Adjustment is granted.

3. The fuel, purchased energy, and purchased wheeling expense incurred by Public Service Company of Colorado from January 1, 2002 through December 31, 2002, and reflected in Public Service Company of Colorado's Incentive Cost Adjustment is approved.

4. The Motion to Vacate Hearing is granted.

5. The hearing scheduled for June 15 through 17, 2004, is vacated.

6. The remainder of the procedural schedule established in Decisions No. R04-0226-I and No. R05-0392-I is vacated.

7. Docket No. 03A-549E is closed.

8. 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.

9. 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.

10. 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.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Administrative Law Judge