

Decision No. R04-0807-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04S-271ST

RE: THE INVESTIGATION AND SUSPENSION OF TARIFF SHEETS FILED BY PUBLIC SERVICE COMPANY OF COLORADO WITH ADVICE LETTER NO. 89-STEAM.

**INTERIM ORDER OF
ADMINISTRATIVE LAW JUDGE
MANA L. JENNINGS-FADER
REQUIRING PUBLIC SERVICE COMPANY
TO SHOW CAUSE WHY TARIFF SHEETS
SHOULD NOT BE PERMANENTLY SUSPENDED**

Mailed Date: July 20, 2004

I. STATEMENT

1. On April 26, 2004, Public Service Company of Colorado (PSCo) filed Advice Letter No. 89-Steam. PSCo stated that the purpose of this filing is to place into effect new base rates which will supersede the base rates now in effect and will eliminate the Phase I GRSA rider. PSCo requested that the tariffs accompanying Advice Letter No. 89-Steam become effective on 30 days' statutory notice.

2. By Decision No. C04-0549 (Commission Order) the Commission suspended the effective date of the proposed tariffs and set them for hearing. The hearing is scheduled for September 2, 2004. The Commission directed the administrative law judge and the parties to address specific issues, in addition to others which might be raised. *See id.* at ¶ I.B.5.

3. In the Commission Order, the Commission also established an intervention period for this proceeding. Staff of the Commission timely intervened and is the only intervenor. The intervention period has closed.

4. Finally, as pertinent here, the Commission Order stated, at ¶ II.A.4 (emphasis supplied):

Public Service Company of Colorado shall file with the Director of the Commission an original and three copies of all exhibits and direct testimonies, and shall effect service in accordance with Rule 7 of the Commission's Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-1, on or before 60 days prior to the first day of hearing. **Except upon timely motion and for good cause shown, or by stipulation of all parties and the Staff of the Commission, no other, different or additional exhibits, witnesses, or scope of witnesses' testimonies will be permitted to be offered by Public Service Company of Colorado in support of its direct case.**

5. The Commission Order specifically provided that no witness will be permitted to testify in support of PSCo's direct case and no exhibit will be received in evidence in support of PSCo's direct case, except under specified circumstances, unless filed and served 60 days prior to the commencement of the hearing. In this case PSCo's direct testimonies and exhibits were due on or before July 6, 2004.

6. A review of the Commission's file in this matter indicates that PSCo has failed to comply with the above-quoted witness direct testimony and exhibit filing requirement. As a result and as it now stands, PSCo will not be permitted to provide any testimony or exhibits in support of its direct case and, therefore, cannot meet its burden of proof in this matter.

7. PSCo will be ordered to file, on or before **July 30, 2004**, a motion or other appropriate pleading with the Commission, which pleading establishes good cause for PSCo's failure to comply with the filing requirement.¹ PSCo's failure to file such a pleading, or to establish good cause, will result in the permanent suspension of the tariffs filed with Advice Letter No. 89-Steam.

¹ This filing must be accompanied by PSCo's direct testimony and exhibits or must contain a schedule for filing PSCo's direct testimony and exhibits.

II. ORDER

A. It Is Ordered That:

1. On or before July 30, 2004, Public Service Company of Colorado shall file with the Commission a motion or other appropriate pleading, which pleading establishes good cause for its failure to meet the witness and exhibit list filing requirement set forth in ¶ II.B.4 of Decision No. C04-0549. In addition, the pleading shall meet the requirements established in this Order.

2. This Order shall be effective immediately.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Administrative Law Judge