

Decision No. R04-1181

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04S-378E

RE: THE INVESTIGATION AND SUSPENSION OF TARIFF SHEETS FILED BY PUBLIC SERVICE COMPANY OF COLORADO WITH ADVICE LETTER NO. 1414 AS AMENDED.

DOCKET NO. 04S-376G

RE: THE INVESTIGATION AND SUSPENSION OF TARIFF SHEETS FILED BY PUBLIC SERVICE COMPANY OF COLORADO WITH ADVICE LETTER NO. 626 AS AMENDED.

**RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE
DALE E. ISLEY
GRANTING MOTION TO WITHDRAW
ADVICE LETTERS; VACATING HEARING
AND PROCEDURAL SCHEDULE;
AND CLOSING DOCKETS**

Mailed Date: October 8, 2004

I. STATEMENT, FINDINGS, AND CONCLUSIONS

1. On May 25, 2004, Public Service Company of Colorado (PSCo) filed Advice Letter No. 626 in Docket No. 04S-376G and Advice Letter No. 1414 in Docket No. 04S-378E with the Colorado Public Utilities Commission (Commission). It requested that the tariffs accompanying these Advice Letters (Tariffs) become effective on July 25, 2004. The purpose of these filings is to revise the monthly Bills section to change the Tariff provisions regarding initial or final bills.

2. On July 20, 2004, the Commission suspended the effective date of the Tariffs for an initial period of 90 days and referred these matters to the undersigned administrative law

judge (ALJ). *See*, Decision Nos. C04-0800 and C04-0803 (Suspension Orders). The Suspension Orders also set Docket No. 04S-376G for hearing on October 21, 2004, set Docket No. 04S-378E for hearing on October 22, 2004, and established deadlines for filing direct and answer testimony/exhibits and motions.

3. On August 17, 2004, the Colorado Office of Consumer Counsel (OCC) filed its Notice of Intervention of Right and Entry of Appearance in both dockets. On August 20, 2004, the Staff of the Commission (Staff) filed its Notice of Intervention in both dockets.

4. On August 19, 2004, PSCo filed pleadings entitled “Motion to Delay of Hearing, an Extension of Time to File All Direct Testimonies and Exhibits, and to Consolidate” (Motions) in both proceedings. The Motions requested that these proceedings be consolidated for hearing, that the hearings established by the Suspension Orders be continued, and that a revised procedural schedule be adopted.

5. On August 25, 2004, the ALJ scheduled a pre-hearing conference for August 26, 2004. *See*, Decision No. R04-1004-I. However, on August 26, 2004, the parties advised the ALJ that they had reached agreement on a revised procedural schedule and, as a result, requested that the pre-hearing conference be vacated. The ALJ agreed to do so on the condition that all parties agreed that: (a) Docket Nos. 04S-376G and 04S-378E would be consolidated for hearing purposes; (b) that these consolidated proceedings could be heard in one day; and (c) that PSCo would, on or before September 3, 2004, file amended Advice Letters amending the effective dates of the Tariffs to a date no earlier than September 7, 2004.

6. On August 26, 2004, the ALJ entered an Order vacating the pre-hearing conference, granting the Motions, adopting the procedural schedule proposed by the parties,

imposing the conditions referred to above, and setting the matter for hearing on December 13, 2004. *See*, Decision No. R04-1031-I.

7. On September 2, 2004, PSCo filed its Second Advice Letter No. 626-Gas in Docket No. 04S-376G and its Second Advice Letter No. 1414-Electric in Docket No. 04S-378E for the purpose of modifying the effective dates of the Tariffs to October 1, 2004. On September 16, 2004, the Commission issued its Order so modifying the suspension period. *See*, Decision No. C04-1100.

8. On October 4, 2004, PSCo filed a Motion to Withdraw Second Amended Advice Letters and Refile New Amended Advice Letters (Motion to Withdraw). As grounds for the Motion to Withdraw, PSCo states that its new billing system, CRS, does not calculate initial and final customer bills in the manner described in the Advice Letters filed in these dockets. In order to comply with the notice provisions of § 40-3-104(1), C.R.S., PSCo requests that it be allowed to withdraw its current Advice Letters and re-file new amended Advice Letters containing an accurate description of the manner in which initial and final customer bills are calculated under its new billing system. PSCo proposes to file such revised Advice Letters on or before October 15, 2004, accompanied by its direct testimony in support of the subject tariff changes.

9. The Motion to Withdraw states that neither Staff nor the OCC object to the relief requested therein. As a result, it is uncontested and response time thereto may be waived.

10. Good grounds having been shown, the Motion to Withdraw will be granted. Withdrawal of the Advice Letters previously submitted in these matters will result in the vacation of the hearing date and procedural schedule established by Decision No. R04-1031-I and the closure of Docket Nos. 04S-378E and 04S-376G. The filing of revised Advice Letters as

contemplated in the Motion to Withdraw will result in entirely new proceedings and, at the Commission's discretion, processing of the same pursuant to § 40-6-111, C.R.S.

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

II. ORDER

A. The Commission Orders That:

1. The Motion to Withdraw Second Amended Advice Letters and Refile New Amended Advice Letters filed in these matters by Public Service Company of Colorado is granted.

2. The procedural schedule previously established in these matters by Decision No. R04-1031-I is vacated.

3. The hearing of this matter scheduled for December 13, 2004, by Decision No. R04-1031-I is vacated.

4. Docket Nos. 04S-378E and 04S-376G are closed.

5. 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.

6. 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.

7. 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