

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04A-275G

APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO FOR RELIEF FROM CERTAIN TERMS AND CONDITIONS OF THE STIPULATION AND AGREEMENT ADOPTED IN DOCKET NO. 92A-352G PERTAINING TO THE HOLDING OF GAS GATHERING CAPACITY UPSTREAM OF ITS TIFFANY COMPRESSOR STATION IN LA PLATA COUNTY, COLORADO.

**INTERIM ORDER OF
ADMINISTRATIVE LAW JUDGE
WILLIAM J. FRITZEL
DENYING MOTION OF PUBLIC
SERVICE COMPANY OF COLORADO
TO STRIKE PORTIONS OF ANSWERING
TESTIMONY OF KINDER MORGAN,
INC.; DENYING MOTION OF KINDER
MORGAN, INC., TO STRIKE PORTIONS
OF REBUTTAL TESTIMONY OF
KURTIS J. HAEGER; DENYING
MOTION OF KINDER MORGAN, INC.,
TO SET ASIDE AND MODIFY INTERIM
ORDER NO. R04-1325-I; AND GRANTING
MOTION TO VACATE THE HEARING
SCHEDULED FOR DECEMBER 2, 2004**

Mailed Date: December 9, 2004

I. STATEMENT

1. On November 18, 2004, Public Service Company of Colorado (Public Service) filed a Motion to Strike Portions of Answering Testimony of Kinder Morgan, Inc.'s (Kinder Morgan) Witnesses, Bentley W. Breland and William D. Meehl.

2. Public Service states that portions of the answering testimony should be stricken since it is directed to Public Service's gas supply arrangements which it believes is irrelevant and beyond the scope of the instant proceeding.

3. On November 24, 2004, Kinder Morgan, Inc. (Kinder Morgan), filed a Response Objecting to the Motion of Public Service. Kinder Morgan states that portions of the answering testimony of its witnesses stated above is in response to statements of Public Service in its application, direct testimony, and discovery responses. Kinder Morgan contends it is not fair to permit Public Service to present testimony on gas supply issues related to the application on the one hand and strike Kinder Morgan's testimony that responds to Public Service's direct testimony concerning gas supply issues. The motion of Public Service to strike will be denied. Kinder Morgan should be allowed to respond through its witnesses to the issues raised in the direct testimony of Public Service.

4. On November 24, 2004, Kinder Morgan filed a Motion to Strike Portions of Rebuttal Testimony of Public Service's witness, Kurtis J. Haeger. Kinder Morgan states that the portions of Mr. Haeger's testimony should be stricken on the grounds that: (1) the testimony goes beyond the application as filed and noticed in this proceeding; (2) the testimony goes beyond the issues presented to the Commission for decision in the Application; and (3) the testimony goes beyond the specific relief requested by Public Service in its Application.

5. On December 8, 2004, Public Service filed a response in opposition to the motion.

6. The motion of Kinder Morgan to strike portions of rebuttal testimony of Public Service's witness Kurtis J. Haeger will be denied. The testimony of Mr. Haeger wherein he states recommendations to the Commission is proper rebuttal testimony and consistent with the relief requested in the Application.

7. On November 24, 2004, Kinder Morgan filed a Motion to Set Aside and Modify Interim Order No. R04-1325-I. Kinder Morgan also requested that the hearing scheduled for

December 2, 2004 be vacated, and an extension of time to file addition testimony (if the relief requested in the motion is granted).

8. The Interim Order denied the motion of Kinder Morgan to compel Public Service to respond to portions of Kinder Morgan's discovery request to Public Service.

9. On December 8, 2004, Public Service filed a response in opposition to the motion.

10. The Motion to Set Aside and Modify Interim Order No. R04-1325-I will be denied. The Motion to Set Aside and Modify does not establish a sufficient basis that would convince the undersigned ALJ to grant the relief requested.

11. Since the above motions were filed just prior to the scheduled hearing, there was insufficient time to allow for responses to the motions, and for an order to be prepared deciding the motions. Therefore the December 2, 2004 hearing will be vacated and rescheduled.

II. ORDER

A. It Is Ordered That:

1. The motion of Public Service Company of Colorado to strike portions of answering testimony of Kinder Morgan, Inc., is denied.

2. The motion of Kinder Morgan, Inc., to strike portions of rebuttal testimony of Public Service Company of Colorado's witness Kurtis J. Haeger is denied.

3. The motion of Kinder Morgan, Inc., to set aside and modify Interim Order No. R04-1325-I is denied.

4. The motion of Kinder Morgan, Inc., to vacate the hearing scheduled for December 2, 2004 is granted.

5. The hearing is rescheduled as follows:

DATE: December 17, 2004

TIME: 9:00 a.m.

PLACE: Commission Hearing Room
1580 Logan Street, OL2
Denver, Colorado

6. This Order is effective immediately.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Administrative Law Judge