

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO**

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**APPLICATION OF PUBLIC SERVICE COMPANY )  
OF COLORADO FOR APPROVAL OF ITS GAS )  
PRICE VOLATILITY MITIGATION PLAN FOR )  
ITS GAS UTILITY OPERATIONS FOR THE GAS )  
PURCHASE YEAR JULY 1, 2005 THROUGH )  
JUNE 30, 2006. )**

**DOCKET NO. 05A-024G**

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**STIPULATION AND AGREEMENT**

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This Stipulation and Agreement is entered into by and between Public Service Company of Colorado ("Public Service" or "Company"), the Staff of the Public Utilities Commission ("Staff"), and the Colorado Office of Consumer Counsel ("OCC"), herein collectively referred to as the "Parties." The Parties hereby stipulate to approval of the Application filed by Public Service, without a hearing, and approval of the Company's Gas Price Volatility Mitigation Plan ("GPVM Plan") for its gas utility operations for the Gas Purchase Year, July 1, 2005 through June 30, 2006. The Parties further agree that the Commission should adopt a ten-day notice period for all future applications filed by Public Service for approval of its Gas Department GPVM Plans, in order to synchronize the procedures for these applications with those adopted by the Commission for Public Service's Electric Department GPVM applications. Lastly, the Parties agree that the procedural schedule adopted in this proceeding should be vacated and that the Commission should enter an order approving this Stipulation and granting Public Service's Application.

1. On January 18, 2005, Public Service filed an application seeking a Commission order approving its proposed GPVM Plan ("GPVM Plan") for its Gas

Department for the Gas Purchase Year, July 1, 2005 through June 30, 2006. The GPVM Plan, which was filed with the Application as Confidential Appendix A, details the circumstances under which Public Service plans to use natural gas storage, fixed price contracts, and Commission-authorized financial instruments in hedging natural gas prices as part of its portfolio for acquiring natural gas supplies for its Colorado gas customers and for use in its Colorado gas utility operations for the upcoming Gas Purchase Year.<sup>1</sup> This Application was filed pursuant to the procedures set forth in the Amended Stipulation and Agreement in Resolution of Proceeding adopted by the Commission in Decision No. C04-1112, mailed September 22, 2004, in Docket No. 02A-267G, ("Stipulation in Docket No. 02A-267G") in which the Commission also approved Public Service's current Gas Cost Adjustment mechanism. In accordance with these procedures, Public Service requested that the Commission approve certain aspects of the GPVM Plan, including particularly: (i) the hedging strategy and implementation plan for the 2005-06 Gas Purchase Year; (ii) the proposed quantity of gas to be hedged; (iii) the timing of the hedges; (iv) the types of hedging instruments that the Company intends to use in implementing the proposed hedging plan; (v) the floor price for determining the costs related to the gas hedging cost cap; (vi) and the maximum hedging cost, all as explained in detail in the GPVM Plan and specifically set forth in Confidential Appendix B to the Application.

2. In its Application, Public Service requested, also in accordance with the terms

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<sup>1</sup> The term "Gas Purchase Year" is defined in the Commission's Gas Cost Adjustment Rules, 4 *Code of Colorado Regulations (CCR)* 723-8-3.19, and corresponds to the period for which annual Gas Purchase Plans and Gas Purchase Reports are required to be filed by Public Service.

of the Stipulation in Docket No. 02A-267G, that the Commission adopt certain procedures to govern the Commission's proceeding established to consider the Application, including a ten-day notice period, the setting of a hearing date, the setting of an answer testimony filing date, and shortened response to discovery and motions *in limine*. At the Commission's open meeting of January 26, 2005, the Commission took up Public Service's request for shortened notice period and approved the request for shortened ten-day notice by minute entry.

3. On January 28, 2005, the Commission issued its Notice of Application Filed. On February 1, 2005, Staff and OCC timely filed notices of intervention.

4. On February 4, 2004, the Commission issued its Order Setting the Docket for Hearing Requiring an Initial Commission Decision, and Directing Parties to Modify Future Filing Procedures, Decision No. C05-0147. By this order, the Commission assigned the matter to an administrative law judge ("ALJ") and, citing the time constraints of the expedited procedural schedule provided under the Stipulation in Docket No. 02A-267G, found that due and timely execution of its functions required that the recommended decision of the ALJ be omitted and that the Commission should issue an initial decision based on the ALJ's findings. The Commission also directed the parties to address the discrepancy in procedures regarding shortened notice, as between those provided pursuant to the Stipulation in Docket No. 02A-267G for Gas Department GPVM Plan applications and those adopted by the Commission in Docket No. 03A-489EG for Electric Department GPVM Plan applications, "so that future filings can be carried out pursuant to the same timelines." See Decision No. C04-0147, p. 2, ¶ 3.

5. In Decision No. C04-0253, mailed March 11, 2004, in Docket No. 03A-489EG, the Commission approved, with clarifications, a Stipulation and Settlement Agreement by and among Public Service, Staff and OCC setting forth stipulated procedures to apply to all future applications by Public Service for approval of its Electric Department GPVM Plans. One of the clarifications made by the Commission in Decision No. C04-0253 pertained to the shortening of the notice period for such applications to ten days. In paragraph 11 at page 3 of the decision, the Commission found as follows:

[T]he parties propose that the notice period for all future PVM Plan applications shall be shortened to ten days. We find that the accelerated schedule in these dockets necessitates a shortened notice period, and we adopt the proposed ten-day notice period for all future PVM Plan Applications. In addition, we require Public Service to state in each application that the notice period has been reduced to ten days, as specified in this decision.

In contrast to the above procedure applicable to Electric Department GPVM Plan applications, paragraph 26 of the Stipulation in Docket No. 02A-267G requires Public Service to include in its annual application for approval of its Gas Department GPVM Plan a request that the Commission issue a notice of the application that, among other things, adopts a ten-day notice period. Accordingly, a procedural discrepancy exists such that, for Gas Department GPVM Plan applications, the Commission must make an interim determination that the notice period should be shortened to ten days, whereas no such interim determination is necessary for Electric Department GPVM Plan applications, as the Commission has predetermined in Decision No. C04-0253 that the shortened ten-day notice period should apply.

6. In order to resolve this procedural discrepancy and eliminate the necessity for the Commission to make such interim determinations on shortened notice for future Gas Department GPVM Plan applications, the Parties agree that the Commission should adopt and approve a shortened ten-day notice period for all future Gas Department GPVM applications. The Parties concur that, given the expedited procedures necessary for processing GPVM Plan applications prior to Public Service's commencement of gas hedging activity for the Gas Purchase Year, good cause exists for the Commission to adopt a ten-day notice period for all future Gas Department GPVM Plan applications. The Parties further agree that, in its decision approving this Stipulation and Agreement and adopting the shortened ten-day notice period, the Commission should also direct Public Service to state in each future Gas Department GPVM Plan application that the notice period has been reduced to ten days as specified in such decision. Therefore, the Parties request that the decision approving this Stipulation and Agreement contain the following language:

We find that the accelerated schedule in these dockets necessitates a shortened notice period, and we adopt the proposed ten-day notice period for all future Gas Department GPVM Plan applications. In addition, we require Public Service to state in each application that the notice period has been reduced to ten days, as specified in this decision.

7. The Parties acknowledge that the Commission's adoption of the ten-day notice period, as provided for in the foregoing paragraph, reflects a change to the procedural requirements provided under the Stipulation approved by the Commission, with modifications, in Docket No. 02A-267G. In addition to Public Service, Staff and the OCC, the only other signatory party to the Stipulation in Docket No. 02A-267G is Energy Outreach

Colorado. Counsel for Public Service has conferred with Ms. Jennifer Gremmert, Deputy Director of Energy Outreach Colorado, and is authorized to represent that Energy Outreach Colorado does not oppose the procedural change that would be effected by the Commission's adoption of this Stipulation and Agreement.

8. The Parties stipulate to approval of the Application filed by Public Service in this docket, without the necessity of a hearing. Staff and the OCC have had the opportunity to conduct discovery on the Company's Application. Neither Staff nor the OCC wishes to address before the Commission any issues with respect to this Application. Therefore, neither Staff nor the OCC object to approval of the Company's Gas Department GPVM Plan for the Gas Purchase Year, July 1, 2005 through June 30, 2006, as filed.

9. The Parties to this Stipulation state that reaching agreement as set forth herein by means of a negotiated settlement rather than through a formal adversarial process is in the public interest and that the results of the compromises and settlements reflected by and in this Stipulation are just, reasonable and in the public interest.

10. This Stipulation may be executed in counterparts, each of which when taken together shall constitute the entire Stipulation.

11. The Parties agree to a waiver of compliance with any requirements of the Commission's Rules and Regulations to the extent necessary to permit all provisions of this Stipulation to be carried out and effectuated.

Dated this 22nd day of February, 2005.

Respectfully submitted,

**PUBLIC SERVICE COMPANY OF COLORADO**

Approved As To Form:

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