

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

DOCKET NO. 08S-146G

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RE: THE TARIFF SHEETS FILED BY PUBLIC SERVICE COMPANY OF COLORADO  
WITH ADVICE LETTER NO. 727-GAS.

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**ORDER ON EXCEPTIONS TO RECOMMENDED  
DECISION OF HEARING  
COMMISSIONER RONALD J. BINZ**

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Mailed Date: December 23, 2008  
Adopted Date: December 3, 2008

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**I. PROCEDURAL HISTORY**

1. On April 18, 2008, Public Service Company of Colorado (Public Service or Company) filed Advice Letter No. 727-Gas (Advice Letter). This Advice Letter was required to be filed by Decision No. C07-0568, which approved in part the Settlement reached by certain parties in Docket No. 06S-656G, Public Service Advice Letter No. 690-Gas.<sup>1</sup>

2. In the Advice Letter, Public Service stated that the purpose of the filing was to revise Public Service's P.U.C. No. 6 - Gas tariff to remove the currently effective 10.66 percent General Rate Schedule Adjustment (GRSA); to propose revised base rate amounts for all rate schedules; to separate the current Commercial Gas Service (Schedule CG) and Firm Gas Transportation Service (Schedule TF) rate schedules into small and large service schedules; to implement a new Pilot Low Income Adjustment; and to propose other conforming and clarifying revisions to the tariff related to these changes to such rate schedules.

3. By Decision No. C08-0453, the tariffs in the Advice Letter were suspended for 120 days and the matter was set for hearing. Pursuant to Decision No. C08-0496, the matter was referred to Hearing Commissioner Ronald J. Binz, and set for hearing for the week of September 8, 2008.

4. Interventions were filed by Atmos Energy Corporation (Atmos); Colorado Natural Gas, Inc.; A M Gas Transfer Corp (A M Gas); Source Gas Distribution, LLC; Rocky Mountain Natural Gas; Seminole Energy Services, LLC (Seminole); Climax Molybdenum Company

<sup>1</sup> Decision No. C07-0568 required the filing to be made on March 31, 2008; however, Decision Nos. C08-0356 and C08-0396 in Docket No. 06S-656G extended the deadline to April 18, 2008.

(Climax); and Energy Outreach Colorado (EOC). By Decision No. R08-0613 these interventions were granted.<sup>2</sup> As a matter of right, Staff of the Commission (Staff) and the Office of Consumer Counsel (OCC) intervened. Subsequently, A M Gas withdrew from the docket.

5. On July 30, 2008, Staff, OCC, Atmos, Seminole, and EOC filed Answer Testimony. On August 27, 2008, Public Service, Staff, OCC, and Atmos filed Rebuttal or Cross Answer Testimony. On that same date, Public Service filed Amended Advice Letter No. 727-Gas. That Amended Advice Letter included two tariff pages that were inadvertently missing from the original Advice Letter and requested that the proposed effective date of the tariff be changed from May 19, 2008 to June 5, 2008. By Decision No. R08-0941, the two tariff pages were suspended and consolidated into this docket and the change in the proposed effective date was granted.

6. On August 27, 2008, Decision No. R08-0916-I was issued. That decision set a public comment hearing on the docket. The public hearing was held on September 8, 2008 at 4:00 p.m. One citizen attended and spoke at the public comment hearing, Mr. Tom Conrad. Mr. Conrad spoke against the proposed decrease in the volumetric charge.

7. On September 8, 2008, the hearing in this docket convened. Hearings concluded on September 11, 2008. At the end of the hearing the evidentiary record was closed.

8. On October 24, 2008, Hearing Commissioner Ronald J. Binz issued Decision No. R08-1127, *Recommended Decision of Hearing Commissioner Ronald J. Binz* (Recommended Decision).

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<sup>2</sup> R08-0613-E was issued on June 9, 2008 to correct an error in the decision number.

9. On November 13, 2008, Exceptions to the Recommended Decision were filed by Public Service, Atmos, and Climax. These exceptions dealt with the level of the Service and Facility (S&F) charge ordered by the Hearing Commissioner, the rejection of the use of the Minimum Distribution System (MDS) as a cost allocation methodology, and the method of cost recovery for Public Service's low-income Pilot Energy Assistance Program (PEAP). No responses to these exceptions were filed.

## **II. DISCUSSION AND FINDINGS OF FACT**

### **A. Minimum Distribution System Issues**

#### **1. Public Service's Exceptions to MDS-Related Decisions in the Recommended Decision**

10. Public Service takes exception to the Recommended Decision's rejection of the MDS methodology. Public Service had proposed that the MDS approach should be used to allocate distribution mains to the customer, demand, and commodity categories of cost within a rate class.

11. Public Service states in its Exceptions:

The overwhelming weight of the evidence in this proceeding shows that the use of the MDS approach to determining the proportion of main distribution costs that are customer-related and not demand-related or usage-related is fair, just and reasonable, as it most closely reflects cost causation in establishing Public Service's gas service rates. Alternatively, the other parties challenging this aspect of Public Service's proposed rates provide little more than theoretical criticisms, unsupported assertions that the Company's fixed distribution main costs are more demand-related and usage-related, and comparisons to the fixed monthly charges of other gas utilities.

*See* Public Service's Exceptions, pp.11-12,

12. Public Service argues that much of a gas utility's investment in distribution mains is driven by the need to connect the customer, not to deliver throughput or to meet peak demand:

The classification of the costs associated with the "minimum system" as customer-related, rather than capacity-related, recognizes that the majority of the delivery costs that customers impose are a function of their decision to connect, or remain connected, to the gas distribution system. The Company must install a network of distribution main simply to have a physical connection with its customers regardless of the level of demand a particular customer will actually impose on the system.

*See* Public Service's Exceptions, p.12.

13. Public Service explains that the rejection of the MDS methodology does not allow it to recover fixed costs in the S&F charge. Rather, too many fixed costs are recovered in the usage charge. Had the Hearing Commissioner allowed the use of the MDS methodology, the appropriate level of costs would have been included in the S&F charge.

14. Public Service states that an S&F charge that is too low serves to create a tendency for earnings erosion, driven by declining weather normalized use per customer. Public Service asserts that the Partial Decoupling Rate Adjustment (PDRA) does not completely allay this problem as Public Service must see a declining use per customer of 1.3 percent before the PDRA is activated.

15. Public Service points out that the rejection of the MDS leads to lower than appropriate S&F charges and explains:

Intra-class subsidies result because high-use customers will continue to subsidize low-use customers. Such subsidies undermine the goal of ensuring that customers pay rates that reflect their cost of service, even where the revenue apportionment among customer classes follows the results of an objective CCOSS.

*See* Public Service Exceptions, p. 13.

16. Public Service finally asserts that, if there are uncertainties about how to classify mains, the MDS approach strikes a better balance between using fixed and usage charges for cost recovery. Public Service argues that erring on the side of understating the customer costs by

rejecting the MDS would continue the pricing distortion that currently exists in Public Service's rates.

## 2. Atmos

17. Atmos raises two exceptions with respect to the rejection of the MDS by the Hearing Commissioner. First, Atmos asserts that the Hearing Commissioner ruled only on the use of the MDS for intra-class allocations, but never addressed or considered Atmos' proposed use of the MDS for inter-class allocations. Second, Atmos asks that the Commission modify the decision by approving Atmos' request that the MD methodology be utilized for inter-class cost allocations.

18. Atmos argues that the Recommended Decision rules only on Public Service's proposed use of the MDS for intra-class rate design and does not address Atmos' inter-class allocation proposal. Atmos points to paragraph 67 of the Recommended Decision's discussion on the MDS and asserts that the decision rejecting the MDS method is narrowly limited to addressing Public Service's intra-class allocation proposal. Specifically, Atmos then asserts that:

All discussion and findings discussed by the Recommended Decision to support its sole ruling relating to the MDS method involve considerations that are unique to intra-class allocation and rate design - omitting relevant discussion of considerations applicable to the inter-class allocation proposal advanced by Atmos in this proceeding.

*See Atmos Exceptions, pp. 4-5.*

19. Atmos maintains that all references to the MDS in the Recommended Decision refer only to the use of the MDS by Public Service; therefore, Atmos' proposal for using the MDS for inter-class allocations was never given proper consideration. Atmos asks the Commission to adopt the MDS approach as proposed by Atmos.

20. The second exception raised by Atmos is the request that the Commission modify the Recommended Decision to require the use of the MDS methodology as an interclass allocator of costs in this case. Atmos argues that the overwhelming evidence in the case supports the use of the MDS method of allocating costs, and the Commission should revise the Recommended Decision and order Public Service to use that methodology as proposed by Atmos:

The evidence in this proceeding clearly demonstrates the strong correlation between utility investment in natural gas mains and the number of customers served. As such, the record evidence also supports use of the MDS methodology to both classify distribution mains costs as customer-related charges and allocate such customer-related charges across all customer classes.

*See Atmos' Exceptions, p. 7.*

21. Atmos argues that the MDS scheme should be used across all customer classes, not just as an intra-class allocation scheme:

...the weight of evidence in this proceeding supports the equitable allocation of distribution investment customer-related costs among all customer classes. For example, failure to allocate such customer-related costs across all customer classes will exacerbate the subsidies among customer classes that exist under current rates, and is likely to lead to a host of additional complications, including inappropriate price signals, detriments to conservation, and revenue instability.

*See Atmos Exceptions, p. 9.*

### **3. Discussion and Findings**

22. In their exceptions, both Public Service and Atmos assert that the weight of the evidence requires that the Commission approve the use of the MDS approach to allocate intra-class distribution main costs. Public Service argues that the MDS method captures cost causative relationships more accurately and allows rates to be better aligned with costs. Atmos agrees and urges the Commission to allow for the use of the MDS approach for inter-class allocations.

23. Having reviewed the Recommended Decision and the record in this case, we agree that the use of the MDS method in this case should be disallowed, and therefore, we reject Public Service's and Atmos' exceptions on this issue.

24. Atmos argues that the Recommended Decision did not explicitly reject the proposed use of the MDS method by Atmos, but only the use of the MDS within Public Service's methodology. Atmos points to paragraph 67 of that decision for support of its exception.

25. Atmos is not correct in its view. The Recommended Decision states:

Having reviewed the record in this case, the proposed use of the MDS methodology for rate design by Public Service will not be approved. The Hearing Commissioner finds that the MDS does not accurately classify or allocate the actual costs of the distribution main system in this case. While there may be a statistical correlation between miles of main and number of customers, this correlation does not lead to the conclusion that new customers cause new mains in the same sense that new customers cause new meters. While laterals and meters are intrinsically customer-related costs, this conclusion is far from evident in the case of distribution mains.

*See* Recommended Decision, at ¶ 62.

26. The Recommended Decision definitively rejects the use of the MDS method in Public Service's rate design. While the Recommended Decision does not explicitly state that it rejects the use of the Atmos version of the MDS, but a normal reading of the Recommended Decision makes it clear that the evidence presented on the MDS has been examined and based on that review, using the MDS methodology in this case has been rejected. In other words, the Recommended Decision rejected the MDS method of allocating costs because of the perceived weakness of its theory and methodology. By rejecting the general concept, it is logical that it is rejected as either an inter-class or intra-class allocator. Therefore, we clarify that the use of the MDS approach is rejected as a general matter and with respect to Atmos' proposal.

27. Based on our review of the record and the Recommended Decision, we find that the Hearing Commissioner has reviewed all the evidence in this case with respect to the use of the MDS approach and has reached a sound conclusion. There was a great deal of evidence placed on the record with respect to this method of cost allocation by both its proponents and detractors. The decision of the Hearing Commissioner carefully reviewed the evidence and positions of the parties in reaching the decision to reject the MDS approach. There is clearly no consensus in the industry on how to allocate distribution mains, and the rejection of the MDS method by the Hearing Commissioner is not a unique notion in the industry. The information in the exceptions filed by Public Service and Atmos on this issue are not new to the case, nor do they provide a compelling argument to revert to the use of the MDS approach.

**B. Service and Facility Charge Issues**

**1. Public Service**

28. Public Service takes exception to the Recommended Decision where the S&F charge has been set at \$10.00 per month for the residential class.<sup>3</sup> Public Service argues that, if the Commission should decide to keep the S&F charge stable at a level to which customers are accustomed, the Commission should not reduce the S&F charge below the currently effective level of \$11.07, including the effect of the GRSA. Public Service also argues that its proposed S&F charge is supported by the weight of the evidence presented in the case.

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<sup>3</sup> The Recommended Decision ordered that the S&F charges for all classes be set at the existing rates net of the 10.66 percent GRSA. Public Service's exceptions relate to the setting of the residential S&F charge at that level.

29. Public Service asserts that:

First and foremost, the Recommended Decision completely ignores the effect of the 10.66% GRSA rider on the currently-effective level of the S&F Charge. This rider, which has been in effect since July 2007, reflects a significant increase in Public Service's cost of service (\$32,331,771) since the preceding rate case in which the \$10.00 S&F was established through settlement. Based on the primary rationale followed by the Recommended Decision of "keep[ing] rates stable" and at a level "customers have become accustomed to," the current residential S&F Charge level of \$11.07, and not the pre-July 2007 level of \$10.00, should be approved in this case.

*See* Public Service's Exceptions, p. 7.

30. Public Service argues that customers are accustomed to a current S&F charge of \$11.07 and therefore the argument in the Recommended Decision for rate stability would imply keeping the S&F charge at that level:

Public Service's customers are clearly more accustomed to the current \$11.07 S&F Charge than the previous level of \$10.00, since the \$11.07 S&F Charge has been in effect since July 30, 2006, or what will be 17 months immediately preceding the effective date of the new base rates.

*See* Public Service Exceptions, p. 8-9. Public Service also adds:

The customer impact of keeping the S&F Charge at the level established in Docket No. 05S-264G, without the currently-effective GRSA, however, results in a 9.7% reduction in the S&F Charge, not a stable S&F Charge, as was the stated intent of the Recommended Decision. [Public Service Exceptions at 9]

31. Public Service states that if the Commission is not going to take action in this Phase II rate case to improve Public Service's earnings stability, the Commission should not take action to make it worse. Public Service points out that since renewable forms of energy and energy conservation are being promoted as a statewide policy, Commission action should not operate to increase Public Service's financial penalty for increased energy conservation.

32. In terms of the impact of the S&F charge on energy conservation, Public Service states:

Public Service's proposal to increase the residential S&F Charge and lower the Usage Charge will not discourage energy conservation and, in fact, will help better align the Company's financial incentives with current public policy goals by mitigating the earnings erosion from declining customer use.

*See* Public Service Exceptions, p. 15.

33. Public Service does not dispute that higher usage charges would theoretically tend to encourage more energy efficiency, but it claims that this factor must be balanced with the need for categories of rates to be based on cost causality and the ability of it to recover its costs in an era of declining use per customer.

34. According to Public Service, the relatively high cost of the natural gas commodity itself should continue to motivate customers to conserve natural gas. Since the commodity cost accounts for over 70 percent of the average residential customer's bill, even a 50 percent increase in the distribution Usage Charge would raise the total variable rate or price signal to customers only by about 5 percent.

35. Public Service finally argues that its proposed S&F charge is in line with fixed charges of other industries. It asserts that services that are comparable in some ways to gas distribution service are local telecommunications service, Internet service, and cable or satellite video service.

## **2. Discussion and Findings**

36. We find that the Hearing Commissioner made an appropriate determination regarding the establishment of the S&F charges, weighing both the evidence in the case and public policy concerns. The decision to keep the S&F charges at the same level as present less the GRSA is supportable by the cost models proffered by Public Service in this proceeding, once the use of the MDS method had been rejected. Also, by keeping the S&F charge lower than

proposed by Public Service, the usage charge, at the margin, still sends price signals to consumers to use natural gas wisely.<sup>4</sup>

37. A myriad of issues exist in the decision on how to balance the relative levels of the S&F, usage, and demand charges in rate design. We must balance the need to have rates reflect costs, to allow the utility an opportunity to earn its rate of return, and to advance energy efficiency and curtail energy consumption growth. We also must ensure that consumers are faced with fair, just, and reasonable rates. Therefore, it is required that all elements of a case be examined in order to derive rates that meet our requirements.

38. A significant portion of Public Service's exceptions to the ruling on the S&F charge rest on its opinion that the Hearing Commissioner relied upon the desire and preference for "stability" in setting the S&F rates at the current level, less the 10.66 percent GRSA, calling it the "primary rationale" for the decision.<sup>5</sup>

39. We disagree with Public Service's portrait of the decision and their citation of one part of the order without acknowledgement of its other arguments. It is apparent from the Recommended Decision that careful attention was paid to the arguments proposed by all parties regarding the issue of the level of S&F charges. Further, once the threshold matter of removing the use of the MDS method in calculating the S&F charge was made, Public Service's own cost models suggested an S&F charge of approximately \$8.42 per month for the residential class.

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<sup>4</sup> Public Service, in its exceptions, contends that the Hearing Commissioner might have been confused by Public Service's witness Brocket's Exhibit SBB-5. We recognize that paragraph 57 of the Recommended Decision should have indicated that the statistics quoted from that exhibit were using the current S&F charge with a GRSA overlay rather than just the S&F charge. However, by referring back to the exhibit, a reader of the Recommended Decision would have seen that the exhibit only provides the combined S&F and GRSA, not the S&F charge that is currently on the tariff as \$10.00.

<sup>5</sup> Public Service's Exceptions, p.7.

One could argue, therefore, that the decision to set the residential rate at \$10.00 should be an acceptable outcome for Public Service.

40. The automatic assumption by Public Service that residential customers assume the S&F charge is something other than \$10.00 is problematic. Current tariffs and bills have \$10.00 associated with the S&F charge. The GRSA impact from the Phase I rate case is a separate line item on the bill.

41. We also note that the S&F charge is now set in the context of Public Service receiving the partial financial safety net of the PDRA. Just as high S&F charges are desired by Public Service to provide it financial stability, the PDRA offers financial support by covering earnings shortfalls driven by declining weather-normalized use per customer in excess of 1.3 percent per year.

42. Public Service's argument that its S&F charge is in line with other industries and should be approved is without merit. The industries and services it cites are generally unregulated (excluding the water companies and Qwest Corporation), and none of them are regulated energy firms. We do not believe we should set high S&F charges for natural gas services simply because pricing in the wireless, cable, and satellite industries use a different pricing structure.

43. The PDRA is a relatively new policy that is designed to shield the Company from some of the risk of lost margins related to decreased sales per capita. It is too early to know how the proposed S&F charge and the PDRA will interact, but the Commission expects to hear proposals to modify the PDRA and/or the S&F charge in the future rate cases as data become available.

**C. Exceptions Related to Reverse United and Straight Fixed Variable****1. Atmos**

44. Atmos requests that the Recommended Decision be altered to change the allocation of non-customer fixed costs to use the Straight Fixed-Variable (SFV) exclusively, rather than the average of SFV and Reverse United.

45. In its exceptions, Atmos argues that there was no appropriate evidence or rationale in the Decision that supports the selection of the SFV methodology and the averaging of the Reverse United and SFV methods to allocate costs and develop rates:

The Recommended Decision's limited and inappropriate retention of the Reverse United method stems not from credible record evidence supporting its use, but from notions of maintaining consistency due to its historical use.

*See Atmos Exceptions, p.11.*

46. Atmos states that the Commission is affirmatively obligated to make decisions that serve today's consumers, based on the present set of circumstances and evidence, and the Commission must abandon past policies and decisions which are no longer appropriate. Atmos points to the compelling arguments presented in favor of the SFV method and the absence of credible support for retaining the Reverse United method, such as requiring the Commission to support the exclusive use of the SFV method.

47. In the alternative, Atmos suggests that if the Recommended Decision's reliance on an average of the Reverse United and SFV methods is to mitigate possible rate shock accompanying instant and complete transition to the SFV method, the Commission should modify the decision. The Recommended Decision should be modified to approve the SFV method as the superior and appropriate methodology for allocating fixed demand-related charges on the sole basis of demand and order a phased-in approach to implement the SFV method as

needed to mitigate rate shock. Such a phased-in approach could include complete transition to SFV over a specified period of time, but no longer than two years.

## 2. Discussion and Findings

48. The Hearing Commissioner, like the Commission, has substantial discretion in determining findings in cases. *See, e.g.*, § 40-6-101(3), C.R.S.

49. The Hearing Commissioner states in the decision:

Although the Hearing Commissioner agrees with the OCC that it is important to have a continuity of Commission policy for both the utilities and the utilities customers, the Hearing Commissioner also find that it is sound public policy practice to review from time to time the cost classification methods. In view of this consideration, the Hearing Commissioner will order in this case that Public Service move its cost allocation methodology towards the SFV outcome and away from an allocation of fixed costs that employs a volumetric allocator, such as Reverse United. Public Service shall re-file its rates based on an allocation of non-customer related fixed costs that is the average of the Reverse United and SFV methods. In effect, this will move the allocation method halfway towards SFV from Reverse United. The Hearing Commissioner finds that this method will improve the cost-tracking aspect of the cost of service study, while acknowledging the merit of continuity in rate making practices. In future cases the Commission will consider whether to complete the transition to SFV, or choose another methodology.

*See Recommended Decision at ¶ 87.*

50. The Hearing Commissioner found that the proponents of the SFV methodology presented sufficient evidence to find the SFV method preferable to the Reverse United cost allocation scheme. Cost allocation methods that separate fixed non-customer costs into demand and usage categories run virtually on a continuum between allocating all these costs to the usage component to all costs assigned to the demand component. Given that Reverse United assigns 75 percent of the fixed costs to demand, and SFV assigns all of the fixed costs to demand, the proposal to have Public Service re-calculate rates in the middle of the two methodologies is justifiable.

51. We find that there is no compelling reason to designate SFV as the superior and appropriate methodology going forward, and we therefore reject Atmos' request for us to do so. The Hearing Commissioner explicitly did not designate SFV as the single preferred method going forward, rather suggesting that alternatives, such as the Modified Fixed Variable method could be used. Moreover, the decision also views the change in allocation methodologies to be an ongoing future process:

The Hearing Commissioner is aware that the SFV methodology is used in many jurisdictions, including at the FERC. The Hearing Commissioner is also aware that there are variations on the SFV methodology, such as the Modified Fixed Variable (MFV) method, although the MFV was not advocated in this proceeding by any party. It may be appropriate in future Phase II proceedings for Public Service to consider such variations when the Commission determines whether to continue the move away from Reverse United and toward SFV.

*See Recommended Decision at ¶ 88.*

52. Based on the discussion above, we reject the exceptions filed by Atmos with respect to the issues of SFV and Reverse United, and we adopt the approach taken by the Hearing Commissioner.

#### **D. Exceptions Related to Cost Recovery for the Pilot Low Income Program**

##### **1. Atmos**

53. Atmos states that the Recommended Decision fails to exclude down-stream utilities, such as Atmos, from contributing to the PEAP. Atmos states:

The Recommended Decision fails to appropriately exclude down-stream utilities, such as Atmos, from contributing to cost recovery associated with PSCo's PEAP program. As a local distribution company, which transports natural gas over PSCo's system, Atmos should not have to contribute to the costs of the PEAP program. Such cost contribution would require Atmos' customers to ultimately fund low-income customers served by PSCo's program, in addition to such customers who may be served through a comparable program administered by Atmos. Atmos customers should not be placed in the position of paying the costs associated with multiple programs.

*See* Atmos Exceptions, p. 14.

## **2. Climax**

54. In its exceptions, Climax objects to the cost recovery method established in the Recommended Decision for the low income program. Climax had supported the flat per-customer charge proposed by Public Service and finds fault with the Recommended Decision's direction to have Public Service recover the costs through the usage charge.

55. Climax asserts that the Order's finding that a flat per-customer charge would cause low-usage and more than likely low-income customers to bear a larger percentage of the costs of the program is unsupported by evidence in the case. Climax asserts that Interruptible Transportation customers will face an increase of 5.4 percent in its new base rates based on this method.

## **3. Discussion and Findings**

### **a. Atmos**

56. Atmos raises the question of whether it is appropriate and fair that downstream utilities such as Atmos are required to pay the costs of Public Service's pilot low-income program. Atmos' argument is a new one and was not presented before in testimony or Atmos' Statement of Position.

57. At this time, we reject the exception of Atmos on this issue. We will, however, make certain observations regarding the position proposed by Atmos even though we have denied its exception. Atmos argues that wholesale customers of Public Service should be treated differently compared with other customers with respect to contributions to the cost recovery of Public Service's low-income program. Atmos contends that its customers could ultimately be

funding Public Service's program along with any program that Atmos would possibly offer in the future.

58. We do not necessarily agree with the argument advanced by Atmos. Atmos is a consumer of the services provided by Public Service like any other customer and Atmos purchases services from the Public Service tariff in a manner no different than other customers. The rates it pays to Public Service are part of its cost of doing business as a downstream utility, similar to the manner in which the rates paid by other customers are the costs of receiving the benefits of natural gas for their own businesses or households. The low-income program is a social program allowed for by statutory authority.<sup>6</sup> The cost recovery of this program will be embedded in the rates charged by Public Service to any and all of its customers.

59. Another factor to take into account is that one of the purposes of the low-income program is to reduce the amount of outstanding bad debt and collections expenses incurred to recover those bad debts. If this program serves to reduce arrears among the low-income population, some level of offsetting revenue requirements may reduce rates in the future. Therefore, the customers of downstream utilities may actually see offsets to the costs of the program. Likewise, if Atmos were to develop a similarly structured program, it too might also generate some reductions in bad debt and collections expenses.

60. Since Atmos does not have a low-income program at the present time, its concerns regarding contributing to the Public Service program are speculative. If Atmos does develop a program in the future and wishes to flesh out the details of their argument concerning the "double-paying" by their customers, we could examine this issue at that time.

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<sup>6</sup> § 40-3-106(d)(I), C.R.S.

**b. Climax**

61. Climax, as discussed above, takes issue with the method ordered by the Recommended Decision for the cost recovery of the low-income program. The order changed Public Service's proposed flat per-customer charge to one based on recovery from the usage charge. Climax contends that this method causes it to have a higher percentage burden than other classes of customers.

62. We have reviewed Climax's exception and the record in the case and have decided to revise the method for cost recovery of the program. We are attempting to balance equity concerns with ease of implementation and cost recovery and tracking certainties. The difference in rate structures across the rate classes makes it hard to achieve these goals with a pure usage allocation. Also, as made clear in the Recommended Decision, the proposed methodology we order below is for the pilot program only and we reserve the right to use a different methodology if this or any other low-income program becomes permanent.

63. We direct Public Service to allocate the costs of the program to each rate class based on each rate class's share of the test year revenue requirement. Public Service will then collect those costs within the rate class on a per customer basis. Each rate class in total will then bear an equal percentage of the costs of the program, and a per-customer charge will allow for more certain cost recovery and easier cost recovery accounting. We reiterate the philosophy espoused in the Recommended Decision that Public Service need not breakout this customer charge in the bill or in the tariff.<sup>7</sup>

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<sup>7</sup> Decision No. R08-1127, para. 207.

**III. ORDER**

**A. The Commission Orders That:**

1. The exceptions filed by Public Service Company of Colorado, Atmos Energy Corporation, and Climax Molybdenum Company on November 13, 2008 are denied in part consistent with the discussion above.

2. The cost recovery mechanism for recovering the costs of the Pilot Energy Assistance Program by Public Service Company of Colorado is modified, consistent with the discussion above.

3. The 20-day time period provided by § 40-6-114(1), C.R.S., to file an application for rehearing, reargument, or reconsideration shall begin on the first day after the effective date of this Order.

4. This Order is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING  
December 3, 2008.**

(S E A L)



ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Doug Dean".

Doug Dean,  
Director

THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

RONALD J. BINZ

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JAMES K. TARPEY

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MATT BAKER

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Commissioners