

STATE OF COLORADO

PUBLIC UTILITIES COMMISSION

Ron Binz, Chairman
James K. Tarpey, Commissioner
Matt Baker, Commissioner
Doug Dean, Director

Department of Regulatory Agencies

D. Rico Munn
Executive Director



Bill Ritter, Jr.
Governor

August 4, 2009

Public Service Company of Colorado
Ms. Karen T. Hyde, Vice President
Rates and Regulatory Affairs – CO
1225 17th Street, Suite 1000
Denver, CO 80202

Ms. Karen T. Hyde,

RE: PROPOSED FORMAL COMPLAINT AND NOTICE OF PROCEEDING - IN THE MATTER OF ALLEGED EARNINGS IN EXCESS OF AUTHORIZED RATE OF RETURN FOR NATURAL GAS SERVICE BY RESPONDENT PUBLIC SERVICE COMPANY OF COLORADO.

Pursuant to the Commission's Rules of Practice and Procedure, 4 CCR 723-1-1302(h) the trial advocacy staff has prepared a Proposed Formal Complaint which was discussed and approved for service at the Commission Weekly Meeting on July 29, 2009. The Proposed Formal Complaint, which is attached, concerns earning in excess of the authorized rate of return for natural gas service.

The purpose of this letter is to give written notice of facts or conduct that may warrant holding a Formal Complaint hearing before the Commission to determine what order or requirement, if any, should be entered regarding possible violations of Decision No. C07-0568 that set just and reasonable rates for Public Service's natural gas business based on a historical test year and an authorized return on equity of 10.25%. Possible remedies include, but are not limited to: (1) the establishment of a Negative General Rate Schedule Adjustment Rider rectify the excess earnings realized by Public Service, (2) the requirement to file a revenue requirement rate case, and (3) the establishment of an earnings test to mitigate the negative impact on retail customers related to over earnings.

1560 Broadway, Suite 250, Denver, Colorado 80202, 303-894-2000

www.dora.state.co.us/puc
TTY Users 711 (Relay Colorado)
Permit and Insurance (Outside Denver) 1-800-888-0170
Consumer Affairs 303-894-2070

Fax 303-894-2065
Transportation Fax 303-894-2071
Consumer Affairs (Outside Denver) 1-800-456-0858

Ms. Karen T. Hyde, Vice President
Page 2 of 2
August 4, 2009

Pursuant to § 24-4-104(3), C.R.S. and 4 CCR 723-1-1302(h)(1) and (2), you are afforded the opportunity to submit to the Commission written data, views and arguments with respect to the proposed reporting violation within 30 days from the date of this letter. Such submission of materials will be considered by the Commission prior to its determination whether to institute Formal Complaint proceedings as set forth in the attached Proposed Formal Complaint and Notice of Proceeding.

Please contact Gene Camp, Energy Section Chief, at 303-894-2047 if you have questions relating to this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Doug Dean".

Doug Dean
Director

(Attachment)

Decision No. _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

Docket No. _____

IN THE MATTER OF ALLEGED EARNINGS IN EXCESS OF AUTHORIZED RATE OF
RETURN FOR NATURAL GAS SERVICE BY RESPONDENT PUBLIC SERVICE
COMPANY OF COLORADO.

PROPOSED FORMAL COMPLAINT AND NOTICE OF PROCEEDING

I. BY THE COMMISSION

A. Statement and Allegations

1. This Complaint was initiated pursuant to §§ 40-3-102 and 40-6-108(1)(b), *Colorado Revised Statutes* (C.R.S.) on the basis of a review by the Staff of the Public Utilities Commission of the State of Colorado (Staff or Complainant) acting as trial advocacy staff in accordance with 4 *Code of Colorado Regulations* (CCR) 723-1-1007. Staff requests that the Colorado Public Utilities Commission (Commission), on its own motion, issue a formal complaint against Public Service Company of Colorado (Public Service or Respondent) for unjust or unreasonable charges made, demanded, or received in violation of § 40-3-101, C.R.S.

2. Public Service is a combination gas, electric and steam utility operating in the State of Colorado and regulated primarily by this Commission. The company is in the business of purchasing, transporting and distributing natural gas. Public Service is the largest gas utility in Colorado with some 1.19 million residential natural gas customers, and approximately 100,000 commercial gas customers. The company also provides gas transportation service to and on behalf of the downstream gas distribution systems owned and operated by other Colorado gas utilities.

3. The Commission made a finding in Decision No. C07-0568¹ that an increase in rates for Public Service's natural gas business was just and reasonable based on an authorized return on equity ("ROE") of 10.25% and a historical year ending ended June 30, 2006. The increase in rates was effective July 30, 2007.

4. Public Service in its Annual Report filed April 30, 2008 in Docket No. 08M-026EG reported that it realized a 10.45% ROE for the calendar year ending December 31, 2007. The 2007 realized ROE is 20 basis points higher than the 10.25% ROE authorized by the Commission in Decision No. C07-0568. A true and correct copy of relevant portions of the subject Annual Report is attached hereto as "Exhibit 1" and incorporated herein by reference.

5. The documentation in Exhibit 1 supports calculated over earnings of \$1,433,817 by Public Service's gas operation during the period August to December, 2007.

6. Public Service in its Annual Report filed April 30, 2009 in Docket No. 09M-065EG reported that it realized a 11.99% ROE for the calendar year ending December 31, 2008. The 2008 realized ROE is 174 basis points higher than the 10.25% ROE authorized by the Commission in Decision No. C07-0568. A true and correct copy of relevant portions of the subject Annual Report is attached hereto as "Exhibit 2" and incorporated herein by reference.

7. The documentation in Exhibit 2 supports calculated over earnings of \$11,870,541 by Public Service's gas operation during the 12-month calendar year 2008.

8. Staff alleges that Public Service's current rates for natural gas service are neither just nor reasonable considering that Public Service over earned by 20 basis points in 2007 after the increased rates were in effect only 5 months. Further evidence of unjust and unreasonable rates is indicated by Public Service's over earning of 174 basis points for the year ending December 31, 2008.

¹ Issued in Docket No. 06S-656G.

9. In order to prevent further over earning in the future, Staff requests that the Commission order the following corrective actions:

- a. Implement a negative General Rate Schedule Adjustment Rider of -5.18 percent;
- b. Require that within 60 days after the effective date of the final decision in this proceeding, Public Service file a revenue requirement rate case based on an historical test year of 12 months ending with the fiscal quarter most recently concluded;
- c. Establish and implement an earnings test to mitigate the negative impact on retail customers related to over earnings.

B. Discussion

10. The primary purpose of utility regulation is to insure that the rates charged are not excessive or unjustly discriminatory. The Commission must set rates which protect both: (1) the right of the public utility company and its investors to earn a return reasonably sufficient to maintain the utility's financial integrity; and (2) the right of consumers to pay a rate which accurately reflects the cost of service rendered. In the case of Public Service, the Commission utilizes rate of return regulation to set just and reasonable rates. Given the authority to set rates, the Commission has the authority to set an authorized rate of return on equity.

11. The Commission requires that the Appendix A Questionnaire provide the utility's average rate base as adjusted and its components, including the computation of working capital; an income statement with all determinable adjustments; a statement showing capitalization and composite costs of preferred stocks; return on equity and composite cost of equity; and the resulting rate of return on rate base. Reported amounts are required to be consistent with prior Commission decisions applicable to each utility. As a result, the financial results reported have been adjusted for items such as weather normalization as well as any other regulatory principles or adjustments authorized in the most recent rate case.

12. The Commission's Rules of Practice and Procedure, 4 CCR 723-1-1302(h)

provide:

Pursuant to §§ 40-6-108 and 24-4-104(3), C.R.S., the Commission may issue a formal complaint through the following process:

- (I) When trial advocacy staff intends to bring a formal complaint against any regulated entity, the trial advocacy staff shall prepare a draft of the proposed formal complaint. The proposed formal complaint shall set forth sufficient facts and information to adequately advise the respondent of the relief sought and how any statute, rule, tariff, price list, time schedule, order, or agreement is alleged to have been violated. Trial advocacy staff shall submit the proposed formal complaint to the Commission at its regular Weekly Meeting for approval to advise the regulated entity of the proposed formal complaint pursuant to § 24-4-104(3), C.R.S. The regulated entity shall have 30 days to cure or satisfy the allegations set forth in the notice of proposed formal complaint.
- (II) Should the regulated entity fail to satisfy or cure the allegations set forth in the notice of proposed formal complaint, or fail to request an extension of time to satisfy or cure, within the 30 day period, trial advocacy staff shall submit the proposed formal complaint, along with any responses from the regulated entity, to the Commission for a determination on whether the formal complaint should be issued. If the Commission determines that the proposed formal complaint fails to satisfy the standards for issuing such complaint pursuant to §§ 40-6-108 and 24-4-104(3), C.R.S., and Commission rules, the Commission shall reject the issuance of the formal complaint. If the Commission determines that the proposed formal complaint satisfies those statutory standards, the Commission shall, upon its own motion, pursuant to § 40-6-108(1), C.R.S., issue the formal complaint.
- (III) Upon issuance, the formal complaint will be processed pursuant to the procedures in these rules and the applicable provisions of § 40-6-101, et seq., C.R.S.

13. Staff's allegations that Public Service over earned by 20 basis points for the year ending December 31, 2007, after rates were in effect for only five months and that Public Service over earned by 174 basis points for the year ending December 31, 2008, after rates were in effect for a total of 17 months effectively raise the issues of:

- a. Whether Public Service's gas operation has over earned since August, 2007, on the basis of the 10.25 percent ROE approved in Decision No. C07-0568;
- b. Whether any such over earnings constitute unjust or unreasonable charges made, demanded, or received in violation of § 40-3-101, C.R.S.;

- c. Whether, assuming that the evidence establishes past over earnings, Public Service will continue to over earn in the future; and
- d. What, if any, corrective measures are appropriate to rectify over earnings established by the evidence.

II. ORDER

A. The Commission Orders That:

1. Consistent with the above discussion, this Complaint is approved for issuance and assigned Docket No. _____. The Commission's Trial Advocacy Staff shall appear in support of the Complaint, and Respondent Public Service (Respondent) shall have the opportunity to appear and defend against the Complaint.

2. An evidentiary hearing shall be convened as follows:

DATE: _____

TIME: _____

PLACE: Colorado Public Utilities Commission
1560 Broadway, Suite 250
Denver, Colorado

3. The issues for determination at hearing are as follows:

- a. Whether and in what amount Respondent earned in excess of the rate for return on equity approved in Decision No. C07-0568 during the period August, 2007, to the present;
- b. Whether any such over earnings constitute unjust or unreasonable charges made, demanded, or received in violation of § 40-3-101, C.R.S.;
- c. Whether Respondent is likely to earn in excess of its approved rate of return for gas operations in the future;

- d. Whether the implementation of a negative General Rate Schedule Adjustment Rider of -5.18 percent is warranted as a corrective action;
 - e. Whether and when Respondent shall be required to file a revenue requirement rate case based on an historical test year of 12 months ending with the fiscal quarter most recently concluded at the time of a final determination in this docket;
 - f. Whether and by what means the Commission shall establish and implement an earnings test to mitigate the negative impact on retail customers related to over earnings.
4. This Order is effective on its Mailed Date.

B. Adopted in Commissioners' Weekly Meeting: September 16, 2009.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners

OFFICE OF THE
PUBLIC UTILITIES COMMISSION

2008 APR 30 PM 4:43



April 30, 2008

Mr. Doug Dean
Director
The Public Utilities Commission of the State of Colorado
1560 Broadway, Suite 250
Denver, CO 80202

Re: Docket No. 08M-026EG

Dear Mr. Dean:

Enclosed herewith are the original and three copies of Public Service Company of Colorado's (PSCo) 2007 annual report as required by Commission Decision No. C08-0116. Attached please find the following:

- A copy of the Electric, Gas and Steam Appendix A Questionnaire;
- A copy of the Colorado Department of Revenue Form DR 0525; (Annual Report of Public Utility Intrastate Gross Operations Revenue);
- The Front Range Pipeline Report as required by Commission Decision No. C99-237, Docket No. 98I-389G.
- A conformed copy of FERC Form No. 1, which will be included in the Annual Report of PSCo to the Public Utilities Commission of Colorado ("Annual Report");
- A signed copy of the Annual Report. This is a copy of the FERC Form No. 1 with selected pages of FERC Form No. 2 and an Addendum as historically filed with the Commission. PSCo does not file a FERC Form No. 2 with the FERC, but will include various pages of this document in the Annual Report;
- A Copy of Sales of Natural Gas by Communities – Pages 516 and 517 will be included in the Addendum to the Annual Report; and
- A copy of PSCo's CPA audit report will be included in the Annual Report.

Sincerely,

Deborah Blair
Director Revenue Analysis

Enclosure

EXHIBIT

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Public Service Company of Colorado
Earned Returns by Department
At December 31, 2007

Attachment 1(d)
Page 3 of 3

Line No.	Description	Per Books	(1) Pro Forma Adjustments	Adjusted Capital
1	Long Term Debt	2,153,250,000	(31,457,915)	2,121,792,085
2				
3	Common Equity	3,373,394,587	(51,094,865)	3,322,299,722
4				
5	Total	5,526,644,587	(82,552,780)	5,444,091,807
6				
7				
8				
9				
10		<u>Ratio</u>	<u>Cost</u>	<u>Combined</u>
11				
12	Long Term Debt	38.97%	6.30%	2.46%
13				
14	Common Equity	61.03%	10.45%	6.38%
15				
16	Total	100.00%		8.84%
17				
18				
19				
20				
21		<u>Ratio</u>	<u>Cost</u>	<u>Electric</u>
22				
23	Long Term Debt	38.97%	6.30%	2.46%
24				
25	Common Equity	61.03%	10.45%	6.38%
26				
27	Total	100.00%		8.84%
28				
29				
30				
31				
32		<u>Ratio</u>	<u>Cost</u>	<u>Gas</u>
33				
34	Long Term Debt	38.97%	6.30%	2.46%
35				
36	Common Equity	61.03%	10.45%	6.38%
37				
38	Total	100.00%		8.84%
39				
40				
41				
42				
43		<u>Ratio</u>	<u>Cost</u>	<u>Thermal</u>
44				
45	Long Term Debt	38.97%	6.30%	2.46%
46				
47	Common Equity	61.03%	10.90%	6.65%
48				
49	Total	100.00%		9.11%



April 30, 2009

Mr. Doug Dean
Director
The Public Utilities Commission of the State of Colorado
1560 Broadway, Suite 250
Denver, CO 80202

Re: Docket No. 09M-065EG

Dear Mr. Dean:

Enclosed herewith are the original and five copies of Public Service Company of Colorado's (PSCo) 2008 annual report as required by Commission Decision No. C09-0113. Attached please find the following:

- A copy of the Electric, Gas and Steam Appendix A Questionnaire;
- A copy of the Colorado Department of Revenue Form DR 0525; (Annual Report of Public Utility Intrastate Gross Operations Revenue);
- The Front Range Pipeline Report as required by Commission Decision No. C09-113, Docket No. 98M-065EG.
- A conformed copy of FERC Form No. 1, which will be included in the Annual Report of PSCo to the Public Utilities Commission of Colorado ("Annual Report");
- A signed copy of the Annual Report. This is a copy of the FERC Form No. 1 with selected pages of FERC Form No. 2 and an Addendum as historically filed with the Commission. PSCo does not file a FERC Form No. 2 with the FERC, but will include various pages of this document in the Annual Report;
- A Copy of Sales of Natural Gas by Communities – Pages 516 and 517 will be included in the Addendum to the Annual Report; and
- A copy of PSCo's CPA audit report will be included in the Annual Report.

Sincerely,

A handwritten signature in cursive script that reads 'Deborah Blair'.

Deborah Blair
Director Revenue Analysis

Enclosure

EXHIBIT

2

Public Service Company of Colorado
Earned Returns by Department
At December 31, 2008

Attachment 1(d)
Page 3 of 3

Line No.	Description	Per Books	(1) Pro Forma Adjustments	Adjusted Capital
1	Long Term Debt	2,453,250,000	8,675,000	2,461,925,000
2				
3	Common Equity	3,570,172,839	(90,544,253)	3,479,628,586
4				
5	Total	6,023,422,839	(81,869,253)	5,941,553,586
6				
7				
8				
9				
10		<u>Ratio</u>	<u>Cost</u>	<u>Combined</u>
11				
12	Long Term Debt	41.44%	6.44%	2.67%
13				
14	Common Equity	58.56%	9.41%	5.51%
15				
16	Total	100.00%		8.18%
17				
18				
19				
20				
21		<u>Ratio</u>	<u>Cost</u>	<u>Electric</u>
22				
23	Long Term Debt	41.44%	6.44%	2.67%
24				
25	Common Equity	58.56%	8.71%	5.10%
26				
27	Total	100.00%		7.77%
28				
29				
30				
31				
32		<u>Ratio</u>	<u>Cost</u>	<u>Gas</u>
33				
34	Long Term Debt	41.44%	6.44%	2.67%
35				
36	Common Equity	58.56%	11.99%	7.02%
37				
38	Total	100.00%		9.69%
39				
40				
41				
42				
43		<u>Ratio</u>	<u>Cost</u>	<u>Thermal</u>
44				
45	Long Term Debt	41.44%	6.44%	2.67%
46				
47	Common Equity	58.56%	10.83%	6.34%
48				
49	Total	100.00%		9.01%