

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14AL-0309G

IN THE MATTER OF ADVICE LETTER NO. 861 - GAS FILED BY PUBLIC SERVICE COMPANY OF COLORADO IN COMPLIANCE WITH DECISION NOS. R13-1307 AND C13-1568 IN PROCEEDING NO. 12AL-1268G TO REVISE THE GENERAL RATE SCHEDULE ADJUSTMENT TO BECOME EFFECTIVE MAY 1, 2014.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
MANA L. JENNINGS-FADER
AMENDING CAPTION OF PROCEEDING,
FURTHER SUSPENDING EFFECTIVE
DATE OF TARIFF SHEETS, SCHEDULING
PREHEARING CONFERENCE,
ADDRESSING INTERVENTIONS,
AND CONTAINING ADVISEMENTS**

Mailed Date: June 3, 2014

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I. STATEMENT

1. On April 1, 2014, Public Service Company of Colorado (Public Service or Company), filed Advice Letter No. 861 - Gas (Advice Letter) to revise the General Rate Schedule Adjustment (GRSA). Accompanying the Advice Letter are proposed tariff sheets that, if in effect, would revise the GRSA upward in order to recover the Company's rate case expense for Proceeding No. 12AL-1268G. The proposed tariff sheets have a May 1, 2014 effective date.

2. The Company has not filed its direct testimony and exhibits in support of the proposed tariff changes.

3. On April 30, 2014, by Decision No. C14-0443, the Commission set this matter for hearing, thus suspending the effective date of the tariffs that accompanied the Advice Letter. The initial suspension period expires on August 29, 2014.

4. In Decision No. C14-0443, the Commission referred this proceeding to an Administrative Law Judge (ALJ).

A. Caption of Proceeding.

5. Decision No. C14-0443 had the following caption: *In the Matter of Advice Letter No. 861 Filed by Public Service Company of Colorado with Decision Nos. R13-1307 and C13-1568 in Proceeding No. 12AL-1268G to Revise the General Rate Schedule Adjustment to Become Effective May 1, 2014*. This caption is incomplete and has words missing.

6. The ALJ will order the caption of this Proceeding changed to the caption that is set out above in this Interim Decision and will order the Commission's administrative Staff to make the appropriate changes to the Commission's records.

B. Interventions.

7. Decision No. C14-0443 established a 30-day intervention period, which has expired.

8. On May 8, 2014, Trial Staff of the Commission (Staff) timely filed (in one document) a Notice of Intervention as of Right, Entry of Appearance, Notice Pursuant to Rule 1007(a) and Rule 1401, and Request for Hearing. Staff is an intervenor and a party as of right.

9. On May 14, 2014, the Colorado Office of Consumer Counsel (OCC) timely filed (in one document) a Notice of Intervention as of Right and Entry of Appearance. OCC is an intervenor and a party as of right.

10. As of the date of this Interim Decision, no other person has intervened as of right or has filed a motion for leave to intervene.

11. As of the date of this Interim Decision, there is no pending motion for leave to intervene out of time.

12. OCC and Staff, collectively, are the Intervenors. Public Service and the Intervenors, collectively, are the Parties.

C. Further Suspension of Effective Date of Tariff Sheets.

13. On April 1, 2014, Public Service filed the Advice Letter. Appended to that filing are tariff sheets with a proposed effective date of May 1, 2014.

14. By Decision No. C14-0443, the Commission suspended, to August 29, 2014, the effective date of the tariff sheets that accompanied the Advice Letter. The Commission may further suspend the effective date of those tariff sheets.

15. Pursuant to § 40-6-111(1), C.R.S., and Rule 4 *Code of Colorado Regulations* (CCR) 723-1-1305(e),¹ by this Interim Decision, the ALJ will further suspend, to **November 27, 2014**, the effective date of the tariff sheets that accompanied the Advice Letter.² If the Commission does not establish new rates by that date, the tariff sheets that accompanied the Advice Letter may become effective.

D. Prehearing Conference.

16. A prehearing conference is necessary to address the matters discussed below and to establish a procedural schedule and hearing dates in this matter. The ALJ will schedule a prehearing conference in this matter for **June 11, 2014**.

17. *At the prehearing conference*, OCC must be prepared to state whether it supports, opposes, contests, or takes no position with respect to the proposed tariff sheets at issue in this Proceeding.

18. *At the prehearing conference*, Staff must be prepared to state whether it supports, opposes, contests, or takes no position with respect to the proposed tariff sheets at issue in this Proceeding.

19. The Commission stated the following with respect to the issues to be addressed in this Proceeding:

We disagree [with arguments presented by Public Service]. The ALJ determined the \$1,286,216 estimate in rate case expenses was only a reasonable *initial* input, not a final one. Likewise, the ALJ ruled the Company has the right to recover for all *prudent* business expenses, not all actual expenses. To the extent this \$1,286,216 was based on actual expenses, the reasonableness of these actuals may not be re-litigated. However, to the extent the requested amount of \$1,839,431.27 in rate case expenses is based on amounts estimated when Decision

¹ This Rule is found in the Rules of Practice and Procedure, Part 1 of 4 *Code of Colorado Regulations* 723.

² The ALJ notes that November 27, 2014 is Thanksgiving Day and is a Colorado state holiday. This does not affect the tariffs' becoming effective if the Commission has not permanently suspended them by that date.

No. R13-1307 was issued, Staff, the OCC, and the Commission did not have an opportunity to review their reasonableness. Thus, these amounts may be reviewed in this proceeding without collaterally attacking prior Commission decisions. To rule otherwise would eliminate the rigorous oversight envisioned by the ALJ in Decision No. R13-1307.

An increase of 43 percent, or over half a million dollars, from estimates presented in Proceeding No. 12AL-1268G is substantial. We find good cause to suspend Advice Letter No. 861-Gas and set it for hearing. We refer the matter to an ALJ. The reasonableness of only those expenses estimated at the time of Decision No. R13-1307 is at issue in this proceeding. We direct the ALJ to set a hearing date and establish other procedures by separate order.

Decision No. C14-0443 at ¶¶ 11-12 (emphasis in original) (footnotes omitted). *At the prehearing conference*, each party must be prepared to discuss the scope of this Proceeding. In considering the scope of this Proceeding, the Parties should take into account the Commission discussion in Decision No. C14-0443 and the rate case expense discussion (if any) in Decisions No. R13-1307, No. C13-1568, and No. C14-0152.³

20. *At the prehearing conference*, the Parties must be prepared to discuss: (a) the date by which Public Service will file its direct testimony and exhibits; (b) the date by which each intervenor will file answer testimony and exhibits; (c) the date by which Public Service will file rebuttal testimony and exhibits; (d) the date by which each intervenor will file cross-answer testimony and exhibits;⁴ (e) the date by which each party will file corrected testimony and exhibits;⁵ (f) the date by which each party will file prehearing motions, including any dispositive motions;⁶ (g) whether a final prehearing conference is necessary and, if it is, the date for that prehearing conference; (h) the date by which the Parties will file any stipulation or settlement

³ These Decisions were issued in Proceeding No. 12AL-1268G. Decision No. R13-1307 was mailed on October 22, 2013; Decision No. C13-1568 was mailed on December 23, 2013; and Decision No. C14-0152 was mailed on February 10, 2014.

⁴ Cross-answer testimony responds only to the answer testimony of another intervenor.

⁵ This is to correct errors (*e.g.*, mathematical errors, typographical errors) in the testimonies as filed.

⁶ This date **must** be at least seven calendar days before the final prehearing conference or, if there is no final prehearing conference, **must** be at least ten calendar days before commencement of the hearing.

agreement reached;⁷ (i) the date(s) for the evidentiary hearing; and (j) the date by which each party will file its post-hearing statement of position, to which no response will be permitted.⁸

21. Absent the filing of an amended advice letter changing the effective date of the proposed tariff sheets, the Commission decision in this Proceeding must issue no later than November 27, 2014. To allow time for statements of position, recommended decision, exceptions, responses to exceptions, and a Commission decision on exceptions, the **evidentiary hearing in this matter must be concluded not later than August 15, 2014.**

22. *At the prehearing conference*, the Parties must be prepared to discuss any matter pertaining to discovery if the procedures and timeframes contained in Rule 4 CCR 723-1-1405 are not sufficient.

23. *At the prehearing conference*, the Parties must be prepared to discuss any matter pertaining to the treatment of information claimed to be confidential if the procedures and timeframes contained in Rules 4 CCR 723-1-1100 and 723-1-1101 are not adequate. This discussion will include the treatment of information for which extraordinary protection is or may be sought, assuming that there is or may be such information.

24. *At the prehearing conference*, a party may raise any additional issue.

25. The Parties must consult prior to the prehearing conference with respect to the matters to be discussed at the prehearing conference and are encouraged to present, if possible, a procedural schedule and hearing date(s) that are satisfactory to all Parties. The ALJ will order the Company to coordinate the discussions.

⁷ This date **must** be at least four business days before the first day of hearing.

⁸ Post-hearing statements of position should be filed not later than seven calendar days from the conclusion of the evidentiary hearing.

26. **The Parties are advised, and are on notice, that** the ALJ will deem a party's failure to attend or to participate in the prehearing conference to be a waiver of that party's objection to the rulings made, the procedural schedule established, and the hearing dates scheduled during the prehearing conference.

E. Advisements and Other Matters.

27. **The Parties are advised, and are on notice, that** they must be familiar with, and abide by, the Rules of Practice and Procedure, 4 CCR 723 Part 1. These Rules are available on-line at www.dora.colorado.gov/puc.

28. All Parties are represented by counsel. The ALJ calls counsel's attention to the requirement of Rule 4 CCR 723-1-1202(d) that

[e]very pleading of a party represented by an attorney shall be signed by the attorney, and *shall state* the attorney's address, telephone number, e-mail address, and attorney registration number.

(Emphasis supplied.) **The Parties are advised, and are on notice, that** filings must comply with this requirement⁹ and with the other requirements found in Commission rules pertaining to filings made with the Commission.

29. **The Parties are advised, and are on notice, that** timely filing with the Commission means that the Commission *receives* the filing by the due date. Thus, if a document is placed in the mail on the date on which the document is to be filed, then the document is *not* filed timely with the Commission.

⁹ During the course of this Proceeding, the ALJ may have occasion to inform counsel, on short notice, of rulings. The ALJ will make such notifications by e-mail and will rely solely on signature blocks for the appropriate e-mail addresses.

30. **The Parties are advised, and are on notice, that** the Commission has an E-Filings System available. One may learn about, and -- if one wishes to do so -- may register to use, the E-Filings System at www.dora.colorado.gov/puc.

II. ORDER

A. It Is Ordered That:

1. The caption of this Proceeding is changed to the caption set out in this Interim Decision.

2. Administrative Staff of the Commission shall change Commission records to reflect the caption of this Proceeding as set out above.

3. Pursuant to § 40-6-111(1), C.R.S., and Rule 4 *Code of Colorado Regulations* 723-1-1305(e), the effective date of the tariff sheets filed with Advice Letter No. 861 - Gas is suspended for an additional 90 days (that is, until November 27, 2014). If the Commission does not establish new rates by that date, the tariff sheets filed with the Advice Letter may become effective.

4. Trial Staff of the Commission is a party in this Proceeding.

5. The Colorado Office of Consumer Counsel is a party in this Proceeding.

6. A prehearing conference in this matter is scheduled as follows:

DATE: June 11, 2014

TIME: 10:00 a.m.

PLACE: Commission Hearing Room
1560 Broadway, Suite 250
Denver, Colorado

7. Consistent with the discussion above, the matters identified in this Interim Decision will be discussed at the prehearing conference. Those attending the prehearing

conference must be prepared to address the identified matters and must have authority to agree to a procedural schedule and to evidentiary hearing dates.

8. Failure to attend or to participate in the prehearing conference is a waiver of objection to the rulings made, to the procedural schedule established, and to the hearing dates scheduled during the prehearing conference.

9. Consistent with the discussion above, Public Service Company of Colorado and the Intervenor shall consult prior to the prehearing conference. Public Service Company of Colorado shall coordinate the discussions.

10. The Parties are held to the advisements in this Interim Decision.

11. This Interim Decision is effective immediately.

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

MANA L. JENNINGS-FADER

Administrative Law Judge