

Decision No. R14-1062-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14AL-0710ST

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IN THE MATTER OF ADVICE LETTER NO. 124-STEAM FILED BY PUBLIC SERVICE COMPANY OF COLORADO TO REVISE ITS COLORADO PUC NO. 1 STEAM TARIFF TO BECOME EFFECTIVE JULY 27, 2014.

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**INTERIM DECISION OF  
ADMINISTRATIVE LAW JUDGE  
ROBERT I. GARVEY  
GRANTING INTERVENTION; SETTING  
PROCEDURAL SCHEDULE; AND GRANTING  
MOTION FOR EXTRAORDINARY PROTECTION**

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Mailed Date: September 2, 2014

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**I. STATEMENT**

1. On June 26, 2014, Public Service Company of Colorado (Public Service or Company) filed Advice Letter No. 124-Steam.

2. By Decision No. C14-0877, issued July 25, 2014, the effective date of the tariff was suspended and the matter was referred to an administrative law judge (ALJ) for disposition.

3. By Interim Decision No. R14-0899-I, issued on July 29, 2014, a prehearing conference was scheduled for August 26, 2014.

4. On August 5, 2014, Staff of the Colorado Public Utilities Commission (Staff) filed its Notice of Intervention as of Right, Entry of Appearance, Notice Pursuant to Rule 1007(a) and Rule 1403(b), and Request for Hearing.

5. On August 22, 2014, the Colorado Energy Office (CEO) filed its Motion for Permissive Intervention.

**A. Further Suspension of Effective Date of Tariff Sheets.**

6. The Commission has suspended the effective date of the tariffs that accompanied Advice Letter No. 124 until November 24, 2014. By further order, the Commission may suspend for additional time, the effective date of the tariff sheets that accompanied the Advice Letter.

7. By this Decision and pursuant to § 40-6-111(1), C.R.S., and Rules 4 *Code of Colorado Regulations* (CCR) 723-1-1305(c) and 723-1-1305(e) of the Commission's Rules of Practice and Procedure, the ALJ will suspend for an additional 90 days (that is until, February 22, 2015), the effective date of the tariff sheets that accompanied the Advice Letter. If the Commission does not establish new rates by that date, the tariff sheets filed with the Advice Letter may become effective

**B. Motion for Permissive Intervention.**

8. On August 22, 2014, the CEO filed its Motion for Permissive Intervention. In support of the Motion for Permissive Intervention, the CEO states that one of its statutory duties is to make state government more energy efficient and promote cleaner and renewable energy

sources. The CEO believes that the content and issues addressed in this proceeding will impact public sector customers, including state agencies. Further, the CEO believes the proceeding has the potential to impact pecuniary and tangible interests it represents in accordance with statutory mandates.

9. At the prehearing conference held on August 26, 2014, Public Service stated that it had no objection to the intervention.

10. Good cause is found to grant the Motion for Permissive Intervention.

11. The CEO shall be granted Intervenor status in the above captioned proceeding.

**C. Procedural Schedule, Evidentiary Hearing Dates, and Related Matters.**

12. At the prehearing conference, the ALJ made oral rulings on the procedural schedule and discovery. This Decision memorializes those rulings.

13. The Parties agreed to the following procedural schedule, which the ALJ finds acceptable and which the ALJ will adopt: (a) no later than September 24, 2014, each intervenor will file its answer testimony and exhibits; (b) no later than October 22, 2014 the Company will file its rebuttal testimony and exhibits; (c) no later than November 5, 2014, each party will file its prehearing motions;<sup>1</sup> (d) no later than November 3, 2014 the Parties will file any stipulation (*e.g.*, a stipulation as to facts or admissibility of prefiled testimony) and any settlement reached; (e) the evidentiary hearing will be held on November 12, 2014; and (f) no later than November 25, 2014, each party will file its post-hearing statement of position, to which (absent a further Order) no response will be permitted.

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<sup>1</sup> Prehearing motions include dispositive motions and motions to strike testimony and exhibits.

14. *With respect to witness testimony and exhibits that contain highly confidential information<sup>2</sup> or confidential information,<sup>3</sup> or both:* (a) if an entire document is not confidential, each portion that contains confidential information will be clearly marked (*e.g.*, shaded), and each page will state in the heading: “This page contains confidential information as shown”; (b) any portion of a witness’s testimony and exhibits that contains highly confidential information will be clearly marked (*e.g.*, shaded), and each page will state in the heading: “This page contains highly confidential information as shown”; (c) if the same page contains both confidential information *and* highly confidential information, the highly confidential information will be differentiated from the confidential information (*e.g.*, by use of different shading), and each page will state in the heading: “This page contains highly confidential information and confidential information as shown”; and (d) the public version of a document that contains confidential information or highly confidential information, or both, will identify in the heading each page on which that information appears.

15. Rule 4 CCR 723-1-1100(c) requires the cover page of a document to state that the document (in this case, testimony, and exhibits) contains confidential information and to identify where in the document the confidential information is found. The same notice requirement applies to a document that contains highly confidential information.

16. For clarity of the evidentiary record and to assist the ALJ and the Parties during the hearing, a sponsoring party will assure, where possible, that the page numbers and the line

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<sup>2</sup> As used in this Decision, highly confidential information is information that, in this proceeding, the ALJ has determined is highly confidential and that is subject to an order for extraordinary protection.

<sup>3</sup> As used in this Decision, confidential information is information that a party claims is confidential and that is filed under seal with the Commission.

numbers are the same on the public version of a document, the confidential version of the document, and the highly confidential version of the document.

**D. Discovery-related Matters.**

17. Rule 4 CCR 723-1-1405 will govern discovery in this matter.

18. Subject to Rule 4CCR 723-1-1100, discovery requests and discovery responses will be served on all Parties.

19. Discovery requests that do not include confidential information or highly confidential information may be served by electronic mail. Discovery responses that do not include confidential information or highly confidential information may be served by electronic mail.

20. Confidential discovery responses are to be served pursuant to the Commission's confidentiality rules.

21. Parties may serve discovery no later than 5:00 p.m. Mountain Time (MT) on Monday through Thursday and may serve discovery no later than 3:00 p.m. MT on Friday. Discovery served later than these stated times will be deemed to be served on the next business day.

22. Except as a proposed exhibit or as necessary to support or to respond to a motion, the Parties will not file discovery requests or discovery responses with the Commission.

23. Except as a proposed exhibit or as necessary to support or to respond to a motion, the Parties will not serve discovery requests or discovery responses on the ALJ, on Commission Advisory Staff, or on Commission Advisory Counsel.

24. Motions pertaining to discovery disputes may be filed at any time. The response time to a motion pertaining to a discovery dispute shall be five business days. Any discovery

motion or response shall be served electronically by e-mail. If necessary, the ALJ will hold a telephone hearing on a discovery-related motion as soon as practicable after the motion and response are filed.

**E. Motion for Extraordinary Protection.**

25. On July 25, 2014, Public Service filed its Motion for Extraordinary Protection.

26. In the motion, Public Service states that in this proceeding it has proposed its revised steam base rates incorporating a new rate design consisting of a customer charge, a demand charge, and a consumption charge. The new rate design reflects a change from the current two-part rates, which include only a customer charge and consumption charge, to three-part rates that include the introduction of a new demand charge component.

27. Public Service states it has received an advanced discovery request, asking for the Company to produce its calculations of the individual bill impacts of the proposed new base rates to each of the Company's 129 customers. Public Service states that this request requires the Company to produce customer-specific load and consumption information and to identify the customer by name and address.

28. In the motion, Public Service seeks to limit disclosure of the information to the Commissioners, the Administrative Law Judge presiding over this matter, the Commission's advisory staff and advisory attorneys, and the Commission's Trial Staff and attorneys for Trial Staff. Public Service also requests that access by counsel for intervenors and subject-matter experts retained by intervenors for purposes of this proceeding be permitted only after all customer-identifying information (*e.g.*, customers' names, addresses, and account numbers) is removed through redactions to the documents containing this highly confidential information. Public Service has included a non-disclosure agreement as exhibit A.

29. No intervenor opposes the motion. Public Service's motion strikes a reasonable balance between the need for disclosure so that the intervenors in this matter can protect their interests, with the need of Public Service to protect its own interests. Therefore, the motion will be granted.

30. The information deemed as highly confidential contained in the discussion above will be available to, Commissioners, the ALJ presiding over this matter, the Commission's advisory staff and advisory attorneys, and the Commission's Trial Staff and attorneys for Trial Staff. The information deemed as highly confidential contained in the discussion above will be available to counsel for intervenors and subject-matter experts retained by intervenors for purposes of this proceeding, only after all customer-identifying information is removed through redactions to the documents. Each of the parties with the exception of the ALJ and the Commissioners shall contact Public Service as to the method the Company chooses to dispose of the information upon the conclusion of this proceeding as provided under Rule 1100(1)(I).

31. Because Commission Trial Staff and Advisory Staff, the ALJ, and Commissioners must have already signed and have on file with the Commission a current annual non-disclosure agreement, they will not be required to execute the Public Service non-disclosure agreement prior to gaining access to the highly confidential information as indicated under Rule 1100(h).

32. In order to have access to the highly confidential information Commission attorneys assigned to this matter, counsel for intervenors and subject-matter experts retained by intervenors must have signed, served, and filed the non-disclosure agreement provided by Public Service prior to gaining access to the highly confidential information.

## II. ORDER

### A. It Is Ordered That:

1. The effective date of the tariffs that accompanied Advice Letter No. 124 is suspended an additional 90 days, until February 22, 2015.

2. The Motion for Permissive Intervention filed by the Colorado Energy Office (CEO) on August 22, 2014, is granted.

3. The CEO is a party to this proceeding.

4. The procedural schedule as stated in paragraph 13, is adopted.

5. The Motion for Extraordinary Protection filed by Public Service Company of Colorado (Public Service) on July 25, 2014, is granted.

6. Access to the highly confidential information as described above is limited consistent with the discussion above.

7. In order to have access to the highly confidential information, Commission attorneys, counsel for intervenors and subject-matter experts retained by intervenors for purposes of this proceeding, must have signed, served, and filed the non-disclosure agreement provided by Public Service.

8. Members of the Commission Trial and Advisory Staff and the Attorneys General representing Trial Staff and Advisory Staff assigned to this proceeding must have signed and have on file with the Commission a current annual non-disclosure agreement in accordance with Commission Rule 4 *Code of Colorado Regulations* 723-1-1100(h) prior to gaining access to the highly confidential information

9. An evidentiary hearing is scheduled in this matter as follows:

DATE: November 12, 2014

TIME: 9:00 a.m.

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

10. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

ROBERT I. GARVEY

\_\_\_\_\_  
Administrative Law Judge

ATTEST: A TRUE COPY

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

Doug Dean,  
Director