

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14AL-0710ST

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.

**RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE
ROBERT I. GARVEY
ACCEPTING STIPULATION, VACATING HEARING,
PERMANENTLY SUSPENDING TARIFFS, AND
REQUIRING THE FILING OF NEW TARIFFS**

Mailed Date: October 6, 2014

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I. STATEMENT

1. On June 26, 2014, Public Service Company of Colorado (Public Service) 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 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.

6. By Decision No. R14-1062-I, issued on September 2, 2014, the intervention of the CEO was granted and a procedural schedule was adopted.

7. By Decision No. R14-1185-I, issued on September 26, 2014, the procedural schedule was modified.

8. On October 1, 2014, the parties filed their Settlement Agreement (Settlement) and their Unopposed Joint Motion to Approve Settlement Agreement and Waive Response Time and Settlement Agreement (Motion). In the Motion, the parties state they have resolved the disputed issues in the proceeding.

9. Upon reaching agreement on the issues in the proceedings, the parties now request that the Commission approve the Settlement and grant Public Service relief consistent with the Settlement.

II. FINDINGS AND DISCUSSION

A. Burden of Proof

10. The parties have the burden of proving by a preponderance of the evidence that the Settlement is just and reasonable.¹ In reviewing the terms of the Settlement, the ALJ applied the Commission's direction and policy with respect to review of settlement agreements as found in, e.g., Decision No. C06-0259, Proceeding No. 05S-264G issued March 20, 2006.

11. Section 40-3-101, C.R.S., contains the standard against which the Commission judges proposed rates and charges: All rates and charges must be "just and reasonable." In addition, the Colorado Supreme Court lists these factors:

Those charged with the responsibility of prescribing rates have to consider the interests of both the investors and the consumers. Sound judgment in the balancing of their respective interests is the means by which a decision is reached rather than by the use of a mathematical or legal formula. After all, the final test is whether the rate is "just and reasonable." And, of course, this test includes the constitutional question of whether the rate order "has passed beyond the lowest limit of the permitted zone of reasonableness into the forbidden reaches of confiscation."

Public Utilities Commission v. Northwest Water Corporation, 168 Colo. 154, 173, 451 P.2d 266, 276 (Colo. 1969) (*Northwest Water*) (citations omitted). Further, the Commission must consider whether the rates and charges, taken together, are likely to generate sufficient revenue to ensure a financially viable public utility, which is in both the ratepayers' interest and the investors' interest. Finally, the Commission must consider the ratepayers' interest in avoiding or minimizing rate shock because the monopoly which a utility enjoys cannot be exerted, to the public detriment, to impose oppressive rates. *Northwest Water*, 168 Colo. at 181, 451 P.2d at

¹ Section 13-25-127(1), C.R.S., and Rule 4 *Code of Colorado Regulations* 723-1-1500 establish the burden of proof for a party which asks the Commission to adopt its advocated position. Decision No. C06-0786, Proceeding No. 05A-072E issued July 3, 2006, at ¶ 40 & n.23.

279. The Commission balances these factors and considerations when reviewing proposed rates and charges.

B. Terms of Settlement

12. The Settlement, attached to this Decision as Attachment A, explains that the parties propose a negotiated resolution of the disputed issues in the case. The Settlement resolves all of the issues which have been raised by Public Service, Staff, and the CEO (Settling Parties).

1. Three Part Rate Design

13. Public Service proposes to implement a three-part steam rate that will include an S&F Charge, a Consumption Charge, and a Demand Charge. The Demand Charge will be assessed on a monthly billing demand equal to the higher of the customer's maximum on-peak hourly demand during the billing period or 50 percent of the customer's highest billing demand during the previous five winter months.

14. The Settling Parties have agreed to the tariff revisions effectuating Public Service's proposed three-part steam rate. The Settling Parties also agree that the revised tariff shall be allowed to go into effect on January 1, 2015.

2. Quarterly Steam Cost Adjustment

15. Public Service proposes certain revisions to its tariff to allow for Steam Cost Adjustment (SCA) changes to be made on a quarterly basis.

16. The Settling Parties agree that the tariffs should be revised to allow for quarterly updates to the SCA. Under the quarterly SCA, revised SCA rates would become effective beginning the first day of each calendar quarter. Each filing will be submitted no later than the 15th of the month prior to the effective date or the next business day after the 15th day should the

15th day fall on a Saturday, Sunday, or Commission-recognized holiday. Public Service will file an application quarterly on less-than-statutory notice in accordance with § 40-3-104(2), C.R.S., and as permitted for gas adjustment clauses under Rule 4109 of the Rules Regulating Gas Utilities and Pipeline Operators, 4 *Code of Colorado Regulations* (CCR) 723-4, and electric cost adjustment clauses under Rule 3109 of the Rules Regulating Electric Utilities, 4 CCR 723-3.

3. Customer Option to Leave System

17. The Parties agree to Public Service's proposed offer of a temporary option that would allow qualifying customers committing to leave the steam system by a certain date to continue paying the currently effective two-part steam rate, as adjusted by the 27.24 percent General Rate Schedule Adjustment, in lieu of the new three-part steam rate.

18. The procedure in which a customer is determined to be qualified for this option is provided in Attachment A.

4. Applications for Standby Service

19. The Settling Parties agree that, as proposed by Public Service, the tariffs should be modified to remove the restriction precluding standby service. Public Service will not begin offering standby service through the tariffs approved in this proceeding; but rather Public Service must seek Commission approval of any terms and conditions of standby service in the event it elects to offer such service.

5. Effective Date of Revised Tariffs

20. The Settling Parties agree that the tariff changes agreed to herein shall become effective January 1, 2015. Upon issuance of a final Commission order approving this Settlement Agreement in all material respects, Public Service shall file, on not less than five business days'

notice, compliance tariff sheets reflecting all of the substantive changes reflected in the revised tariff sheets originally filed with Advice No. 124 - Steam to become effective January 1, 2015.

6. Public Interest

21. The parties agree that the Settlement is just and reasonable and in the public interest and is intended to comply with the provisions of Rule 1408 of the Commission's Rules of Practice and Procedure 4 CCR 723-1.²

C. Findings and Conclusions

22. The Settlement is just and reasonable, therefore good cause is found to accept the Settlement without modification.

23. The undersigned ALJ does not find it necessary to hold an evidentiary hearing in the above captioned proceeding.

24. In accordance with § 40-6-109, C.R.S., it is recommended that the Commission enter the following order.

III. ORDER

A. The Commission Orders That:

1. The Unopposed Joint Motion to Approve Settlement Agreement and Waive Response Time (Motion) filed by the parties on October 1, 2014 is granted.

2. Response time to the Motion is waived.

² Rule 1408 states: "The Commission encourages settlement of contested proceedings. Any settlement agreement shall be reduced to writing and shall be filed along with a motion requesting relief with regard thereto. The Commission shall enter a decision approving or disapproving the settlement, or recommend a modification as a condition for approval. Parties are encouraged to provide comprehensive reasoning regarding the terms of a settlement. The Commission may hold a hearing on the motion prior to issuing its decision. An agreement that is disapproved shall be privileged and inadmissible as evidence in any Commission proceeding."

3. The Settlement Agreement filed by the parties on October 1, 2014 and attached to this Decision as Attachment A, is approved without modifications.

4. The evidentiary hearing scheduled for November 12, 2014 is vacated.

5. The effective date of the tariff sheets filed on June 26, 2014 with Advice Letter No. 124 is permanently suspended.

6. Upon issuance of a final Commission Decision approving this Settlement Agreement, if that is the case, Public Service Company of Colorado shall file a new advice letter and tariff on not less than five business days' notice. The advice letter and tariff shall be filed as a new advice letter proceeding and shall comply with all applicable rules. In calculating the proposed effective date, the date the filing is received at the Commission is not included in the notice period and the entire notice period must expire prior to the effective date. The advice letter and tariff must comply in all substantive respects to this Decision in order to be filed as a compliance filing on shortened notice.

7. This Recommended Decision shall be effective on the day it becomes the Decision of the Commission, if that is the case, and is entered as of the date above.

8. As provided by § 40-6-106, C.R.S., copies of this Recommended Decision shall be served upon the parties, who may file exceptions to it.

9. If no exceptions are filed within 20 days after service or within any extended period of time authorized, or unless the recommended decision is stayed by the Commission upon its own motion, the recommended decision shall become the decision of the Commission and subject to the provisions of § 40-6-114, C.R.S.

10. If a party seeks to amend, modify, annul, or reverse a basic finding of fact in its exceptions, that party must request and pay for a transcript to be filed, or the parties may

stipulate to portions of the transcript according to the procedure stated in § 40-6-113, C.R.S. If no transcript or stipulation is filed, the Commission is bound by the facts set out by the administrative law judge; and the parties cannot challenge these facts. This will limit what the Commission can review if exceptions are filed.

11. If exceptions to this Recommended Decision are filed, they shall not exceed 30 pages in length, unless the Commission for good cause shown permits this limit to be exceeded.

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ROBERT I. GARVEY

Administrative Law Judge