

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 18AL-0803G

IN THE MATTER OF ADVICE LETTER NO. 936 - GAS FILED BY PUBLIC SERVICE COMPANY OF COLORADO TO REVISE ITS PIPELINE SYSTEM INTEGRITY ADJUSTMENT IN ITS COLORADO P.U.C. NO. 6 – GAS TARIFF TO BECOME EFFECTIVE JANUARY 1, 2019.

**RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE
STEVEN H. DENMAN
ACKNOWLEDGING THE WITHDRAWAL
OF CHALLENGES AND PROTEST BY STAFF
AND NOTICE OF RESOLUTION AND
CLOSING THE PROCEEDING**

Mailed Date: August 26, 2020

I. STATEMENT

1. Approved initially in Proceeding No. 10AL-963G, the Pipeline System Integrity Adjustment (PSIA) is a rate adjustment mechanism that allows Public Service Company of Colorado (Public Service) to track and to recover the costs associated with natural gas pipeline system integrity programs.¹ The Commission may subject annual PSIA expenses to prudence reviews.

2. By Decision No. C13-0964 (mailed on August 8, 2013) in Proceeding No. 10AL-963G, the Commission directed an Administrative Law Judge (ALJ) to open a miscellaneous proceeding (later opened as Proceeding No. 13M-0915G) and to take comment on the procedures to be used in conjunction with a PSIA advice letter and report, and then to

¹ See Decision No. R11-0743 (mailed on July 8, 2011), affirmed and modified on exceptions by Decision No. C11-0946 (mailed on September 1, 2011) in Proceeding No. 10AL-963G.

establish requirements for PSIA filings. On June 25, 2014 in Decision No. R14-0694, Judge Mana Jennings-Fader established requirements for PSIA filings.²

3. The procedures in Decision No. R14-0694 include provisions for the Commission to issue notice of Public Service's annual PSIA report filings for potential prudency reviews. Specifically, the Commission provides notice of Public Service's annual PSIA filing to all persons registered to receive notices about natural gas matters through the Commission's E-Filings System. The notice must state that Public Service has made its annual PSIA filing and identify the proceeding in which the report filing was made. A challenge to a PSIA project or its costs (or both) must be filed in the appropriate advice letter proceeding and must be filed not later than 30 days from the date of the Commission's notice of the annual PSIA report filing. If there are challenges to PSIA expenses in the annual report, upon a finding of good cause, the Commission may initiate a PSIA prudency review in accordance with the terms and procedures set forth in Decision No. R14-0694.³

4. In Decision No. C18-0983 (mailed on November 6, 2018) in Proceeding No. 18A-0422G, the Commission approved a comprehensive Settlement Agreement extending the PSIA through 2021.

5. The instant proceeding started when Public Service filed Advice Letter No. 936-Gas filed on November 15, 2018, seeking to revise and to implement new PSIA rates applicable to all retail gas sales and gas transportation customers, effective January 1, 2019.⁴ By

² Decision No. R14-0694 (mailed on June 25, 2014) in Proceeding No. 13M-0915G, ¶¶ 63 and 64. Pursuant to § 40-6-109(2), C.R.S., Decision No. R14-0694 became a decision of the Commission on July 15, 2014.

³ See e.g., Decision No. C18-0324-I (mailed on May 9, 2018), opening prudency review; and Decision No. R18-0838 (mailed on September 18, 2018) in Proceeding No. 16AL-0883G, acknowledging withdrawal of challenges to 2017 PSIA expenses and closing the proceeding.

⁴ See the PSIA provisions in Public Service's Colorado P.U.C No. 6 – Gas tariff, Sheet Nos. 47 through 47B.

Decision No. C18-1054-I (adopted on November 21, 2018; mailed on November 29, 2018), the Commission allowed Public Service to utilize alternative forms of notice, detailed in the Decision, to provide notice to its general body of gas ratepayers and other interested persons of the proposed changes to its PSIA rates.

6. On December 14, 2018, Public Service filed an Amended Advice Letter No. 936-Gas, along with an Amended PSIA Tariff and amended supporting exhibits. The purpose of the Amended Advice Letter and Amended PSIA Tariff was to propose a 2019 PSIA revenue requirement and PSIA rates, which were based upon the Commission's determinations in Proceeding No. 17AL-0363G (Public Service's 2017 Phase I Gas Rate Case) regarding return on equity, cost of long-term debt, and capital structure.

7. The amended 2019 PSIA rate was designed to allow Public Service to recover a total 2019 PSIA Revenue Requirement of \$88,840,479 from its gas customers during 2019. The 2019 PSIA Revenue Requirement was an increase of \$7,510,887 from the effective 2018 PSIA revenue requirement of \$81,329,592 established in Proceeding No. 18AL-0191G. The 2019 PSIA Revenue Requirement reflected the difference between the total projected 2019 Pipeline System Integrity costs of \$92,432,544 (2019 PSIA Costs) and net adjustments in the amount of (\$3,592,065), all of which are further detailed in Amended Advice Letter No. 936-Gas and the accompanying amended exhibits.

8. Thereafter, the new PSIA rates became effective on January 1, 2019.

9. On April 1, 2020, Public Service filed its 2019 PSIA Actuals Report (2019 PSIA Report or Report). The Report explains the activities Public Service undertook pursuant to its PSIA-eligible programs during calendar year 2019, how the costs it incurred for

these PSIA activities were managed, and any deviations between previously forecasted and actual costs for 2019. According to the Report, the 2019 PSIA rates provided for the recovery of costs incurred pursuant to the following four integrity management programs and projects: (1) Accelerated Main Replacement Program; (2) Distribution Integrity Management Program (DIMP); (3) Transmission Integrity Management Program (TIMP); and (4) the West Main Replacement Project. Attachments to the 2019 PSIA Report provide detailed support for the actual capital expenditures incurred during 2019 in connection with the four integrity management programs and projects. The Report states that in 2019, Public Service's actual net revenue requirement was about 1.6 percent lower than the forecast provided in the November 2018 PSIA filing and that the level of variance differed for each of the four programs. According to the Report, eight different factors contributed to the variance between the November 2018 PSIA filing of projected costs of capital and the actual costs included in the 2019 PSIA Report.⁵

10. On April 2, 2020, the Commission issued a "Notice of 2019 PSIA Annual Report Filed" (Notice). The Notice was issued pursuant to the procedures for initiating a prudency review of the PSIA projects and their costs for the 2019 calendar year, which were established by Decision No. R14-0694 in Proceeding No. 13M-0915G and Decision No. C18-0983 in Proceeding No. 18A-0422G. The Notice set a 30-day intervention deadline, which ended on May 4, 2020.⁶

⁵ 2019 PSIA Report, Overview, at pages 1 through 3.

⁶ The 30-day intervention period fell on Saturday, May 2, 2020. Therefore, pursuant to § 40-6-121, C.R.S., the intervention deadline was extended by operation of law to the next business day, or Monday May 4, 2020.

11. On April 27, 2020, Trial Staff of the Colorado Public Utilities Commission (Staff) filed its Notice of Intervention as of Right (Intervention), alleging that the attachments to the 2019 PSIA Report contain significant variances and inconsistencies, which Staff argued are not acceptable. Further, Staff requested a hearing on the 2019 PSIA Report.⁷ Decision No. R20-0525-I (mailed on July 16, 2020) acknowledged Staff's intervention as of right.

12. No interested persons filed motions for permissive intervention, pursuant to Rule 1401(c) of the Rules of Practice and Procedure, 4 *Code of Colorado Regulations* 723-1.

13. The Parties to this proceeding are Public Service and Staff.

14. On May 6, 2020, Public Service filed an Affidavit of Publication, confirming that the notice to customers about the filing of the 2019 PSIA Report was published in *The Denver Post* on May 3, 2020.

15. During the weekly meeting held on June 17, 2020, by Minute Order, the Commission referred the matter to an ALJ for disposition. Subsequently, the undersigned ALJ was assigned to preside over this proceeding.

16. Decision No. R20-0525-I ordered counsel for Public Service to confer with counsel for Staff, and to agree, if possible, *inter alia* on available hearing dates during September 2020, other procedural deadlines, and discovery procedures. The ALJ also ordered the Parties to file a Joint Status Report no later than July 30, 2020 reporting any procedural agreements reached.⁸

17. The Parties were also advised that, consistent with the current Executive Order Declaring an Emergency Disaster and public health orders and advisories to prevent the spread

⁷ Staff's Intervention, ¶¶ 1 and 2 at pages 1 through 3.

⁸ Decision No. R20-0525-I, Paragraph Nos. 25-39 at pages 8-12.

of coronavirus (COVID-19) in Colorado, the evidentiary hearing may be held remotely, using video conference technology.⁹

18. On July 30, 2020, Public Service and Staff filed a Joint Status Report in Compliance with Decision No. R20-0525-I, Notice of Resolution, Withdrawal of Protest, and Motion to Vacate Remaining Deadlines (Notice and Withdrawal).

19. The Notice and Withdrawal advised the ALJ that since Staff's intervention, Staff has continued to evaluate the Report. Public Service and Staff engaged in numerous discussions concerning both the Report and Staff's challenges, and Public Service provided additional information to Staff through responses to data requests.¹⁰

20. The Notice and Withdrawal reported that, because of these information exchanges and discussions, Public Service agreed to include additional information in its future annual November PSIA advice letter filings. Specifically, Public Service will include, in Exhibit 4, Attachment A to the annual November PSIA advice letter filing, the stage gate status and description of each gate¹¹ for individual projects in the following Project categories, based on the financial forecast used to develop the filing:

- i. DIMP¹² – Distribution Valve Replacement Program;
- ii. TIMP¹³ – Automatic Shutoff Valve/Remote Control Valve (ASV/RCV) Valve Set Installation Project;
- iii. TIMP – Maximum Allowable Operating Pressure (MAOP) Validation Project;

⁹ *Id.*, Paragraph No. 27 at page 9.

¹⁰ Notice and Withdrawal, Paragraph No. 2 at page 3.

¹¹ There are multiple stage gates in a project's lifecycle where the project's scope of work, estimate and schedule, among other things, are evaluated.

¹² "DIMP" means Distribution Integrity Management Programs.

¹³ "TIMP" means Transmission Integrity Management Programs.

- iv. DIMP – Programmatic Pipe Risk-Based Replacement Program (PPRP) - Coupled IP only; and
- v. DIMP – PPRP – Vintage Steel – Leadville project only.¹⁴

21. Based on these discussions, the information provided by Public Service, and Public Service’s commitment to provide additional information in the November PSIA filings, Staff advised the ALJ that it no longer wishes to pursue, and was withdrawing, the challenges to the 2019 PSIA Report raised in its intervention.¹⁵

II. FINDINGS AND CONCLUSIONS

22. The ALJ acknowledges the filing of the Joint Status Report, Notice of Resolution of Disputed Issues, Withdrawal of Protest, and Motion to Vacate Remaining Deadlines on July 30, 2020 by Public Service and Staff.

23. Staff has withdrawn its challenge and Protest to Public Service’s PSIA Report.

24. Staff has withdrawn its Intervention, filed on April 27, 2020.

25. Any remaining procedural requirements and deadlines in this proceeding, including the requirement to file a procedural schedule, will be vacated.

26. Because there are no challenges to Public Service’s 2019 PSIA Report, this proceeding is uncontested, and a hearing is not necessary in this proceeding.

27. Because there are no outstanding issues to be resolved in this proceeding, this proceeding can be closed.

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

¹⁴ *Id.*, Paragraph No. 3 at page 3.

¹⁵ *Id.*, Paragraph No. 4 at pages 3 and 4.

III. ORDER

A. The Commission Orders That:

1. The Joint Status Report, Notice of Resolution of Disputed Issues, Withdrawal of Protest, and Motion to Vacate Remaining Deadlines, filed on July 30, 2020 by Public Service Company of Colorado and Trial Staff of the Colorado Public Utilities Commission (Staff), is acknowledged.

2. The withdrawal of Staff's protest and challenges to projects and costs contained in Public Service's 2019 Pipeline System Integrity Adjustment Actuals Report is acknowledged.

3. The Notice of Intervention as of Right by Staff, Entry of Appearance, Notice Pursuant to Rule 1007(a) and Rule 1401 and Request for Hearing, filed by Staff on April 27, 2020, is deemed to be withdrawn.

4. Any remaining procedural requirements and deadlines in this proceeding are vacated.

5. Proceeding No. 18AL-0803G is closed.

6. 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.

7. 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.

- a. 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.

- b. 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.
8. 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

STEVEN H. DENMAN

Administrative Law Judge