(Decision No. R81-1650)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO FOR AN ORDER AUTHORIZING IT TO ESTABLISH GAS AND ELECTRIC SERVICE PIPE INSTALLATIONS.	APPLICATION NO. 32845
IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO FOR AN ORDER AUTHORIZING IT TO REVISE THE EXTENSION POLICY INCLUDED IN ITS PUC NO. 5 - ELECTRIC TARIFF.	APPLICATION NO. 32602 RECOMMENDED DECISION OF EXAMINER LOYAL W. TRUMBULL UPON REMAND PURSUANT TO DECISION NO. C81-752

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September 29, 1981
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Appearances: James K. Tarpey, Esq., of Kelly, Stansfield & O'Donnell, Denver, Colorado, for Public Service Company of Colorado;

Richard L. Fanyo, Esq., of Welborn, Dufford, Cook & Brown, Denver, Colorado, for CF&I Steel Corporation;

William H. McEwan, Esq., of Gorsuch, Kirgis, Campbell, Walker & Grover, Denver, Colorado, for the Cities of Lakewood and Arvada;

Daniel C. Kogovsek, Esq., Denver, Colorado, for the Colorado Office of Consumer Services;

D. Bruce Coles, Esq., Denver, Colorado, for the Colorado Energy Advocacy Office;

Dudley Spiller, Assistant Attorney General, Denver, Colorado, for the Staff of the Commission;

James M. Lyons, Esq., Denver, Colorado, for The Home Builders Association of Metropolitan Denver.

PROCEDURE AND RECORD

On April 21, 1981, the Commission issued its Decision No. C81-752, in which it remanded the above-captioned matters to the undersigned Examiner for further hearing and entry of a recommended decision in accordance with certain policy parameters stated in such decision. On May 5, 1981, by Decision No. R81-798-I, the matters were set for hearing on June 2 and 3, 1980, at 10 a.m., in the Commission Hearing Room, 500 State Services Building, 1525 Sherman Street, Denver, Colorado.

The City of Lakewood, the City of Arvada, and the Home Builders Association of Metropolitan Denver filed a joint motion requesting extension of time within which to file applications for rehearing, reargument, or reconsideration of Decision No. C81-752, on May 5, 1981. By such petition, the Cities of Lakewood and Arvada and Home Builders requested an extension of time until April 21, 1981, to file applications for rehearing, reargument, or reconsideration of Commission Decision No. C81-752. Public Service Company of Colorado (hereinafter referred to as Applicant or "the company") filed a response opposing the joint motion for extension of time to file applications for rehearing, reargument, or reconsideration, on May 8, 1981. The joint motion was denied by the Commission on May 19, 1981, in Decision No. C81-885. However, the hearing dates had to be vacated due to unavailability of counsel, which was done by Decision No. R81-926-I, which also set the matter for a prehearing conference on June 5, 1981. As a result of such conference, Chief Hearings Examiner Robert E. Temmer issued an order on June 12, 1981, setting the matter for hearing on July 22, 1981, and establishing a schedule for the filing of exhibits and summaries of testimony prior to hearing.

The matter was heard as last scheduled, with testimony being heard from two witnesses and a total of eight exhibits being offered and admitted into evidence. The parties were assigned specific dates after the filing of a transcript on which to file statements of position, and the matter was taken under advisement pending receipt of such statements, which have been duly filed.

Pursuant to the provisions of 40-6-109(6), CRS 1973, and the directions contained in Decision No. C81-752, Examiner Loyal W. Trumbull now submits to the Commission the record and exhibits of the proceedings upon remand together with this recommended decision.

FINDINGS OF FACT AND CONCLUSIONS THEREON

The Examiner has found the following facts to exist, based upon all the evidence of record, and has arrived at the following conclusions based upon such facts:

1. One of the main factual matters to be resolved upon remand was that of what the current imbedded costs of distribution plant are with regard to particular categories of service, which costs would initially represent the free construction allowance to be authorized for new customers. Applicant proposes that imbedded gross distribution plant for the classes of residential and commercial customers, and their subclasses, be calculated on the basis of the cost of service study done by Applicant in I&S Docket No. 1330, which was based upon a calendar year 1978 test period. Home Builders Association objects to the use of such cost of service study on the basis that it is too remote in time and that updated information is available from the cost of service study done for I&S 1452, the currently pending general rate case, the use of which would result in a somewhat higher free construction allowance. The tariffs proposed by Applicant contemplate filing for revision of the free construction allowances within ninety days after entry of final agency action. Also, the only precise evidence of imbedded costs in this proceeding is based upon the I&S 1330 figures. It is therefore the conclusion of the Examiner that the use of the I&S 1330 figures is just and reasonable, and that the updating procedures hereinafter recommended will be adequate to obviate the objections as to staleness of such information.

2. In calculating average gross distribution system investment for purposes of this proceeding, the company has included primary distribution, secondary distribution and distribution substations. Meter costs were excluded inasmuch as they are separately considered for tariff purposes in Application No. 32845. However, the costs of distribution substations are not included by the company in the calculation of

new customer line extension costs to which the free construction allowance is applied. Specifically, the $275 free construction allowance proposed by the company includes $36 attributable to distribution substations; CEAO and OCS propose that such allowance be reduced to $239, and that the allowance for all other classes be proportionately reduced for the same reasons. Their basic premise is that new distribution substation costs should be either included in or excluded from both the free construction allowance and the calculation of costs of line extensions for new customers. The method presently proposed by the company results in increasing the allowance by $39 but not charging that specific cost to the new customer in determining his extension cost. Thus, it is not included in the customers required "Construction Payment" for construction in excess of free construction, and that cost must be made up for in base rates paid by all customers. The Commission has stated that it is ". . . favorably inclined toward any proposal which more accurately tracks costs and allocates the same to those who are responsible for their incurrence." It is not putting too fine a point on the matter to require that this policy be adhered to in the matter of distribution substation costs resulting from new consumption and growth. It is therefore concluded that the company should be required to exclude distribution substation costs from computation of both the free construction allowance and new customer line extension costs.

3. Counsel for Intervenor Home Builders has objected to the free construction allowances proposed by the company on the ground that differentiation has been made on the basis of subclasses within the Residential class, specifically differentiating between those using and not using all-electric heating rather than establishing one free construction allowance for all Residential customers. Such position is premised upon a somewhat tortured interpretation of Decision No. C81-752 to the effect that the only differentiation was to be on the basis of residential, commercial and industrial usage. Considering the oft-repeated policy of the Commission in this matter concerning tracking costs and avoiding cross-subsidization, it is imperative that differentiation be made between the various residential subclasses considering the wide disparity in average investment in and service characteristics of such subclasses. Adoption of the Home Builders' position on this issue would obviously result in an unduly high free construction allowance for the residential general rate classes and require an inordinate construction payment from new residential heating and residential demand customers whose free construction allowance would not represent current average gross distribution investment for such subclasses.

4. Applicant proposes a free construction allowance of $325 per pole for street lighting customers, regardless of whether such installation is an "ornamental" pole or a wood pole. Exhibit 30 demonstrates that the average construction and installation cost for a 9500 lumen sodium fixture with wood pole and overhead feed was $499 in 1981; however, the corresponding cost for the same fixture with ornamental pole and underground feed was $1,204.

The proposed $325 figure was derived from an average of the investment in all streetlighting facilities, wood, ornamental and non-company owned, many of the latter of which are ornamental and in which Applicant in fact has no investment. The Cities have contended that the company should be required to recompute this figure due to the inclusion of non-company owned poles and fixtures. However, there has been no showing that such inclusion has in fact distorted the average.

The Cities contend also that there should be a separate free construction allowance for wood and ornamental poles because the costs vary greatly. This is technically appealing on its face, considering the directive of the Commission concerning using average investment to establish a free construction allowance. However, here we are not discussing a difference in services based on usage and load characteristics; it is the same service being rendered, the only difference being the

aesthetic appeal and expense involved in the poles used. Counsel for the Cities also suggests that not having separate allowances for wood and ornamental poles is unfair to those municipalities that have historically used ornamental poles. However, it is interesting to note that it is not the Cities that have previously installed ornamental poles that will be most adversely affected by using one free construction allowance for both types of service; quite to the contrary, they have merely had the benefit of a windfall in the past and do not have a vested right to have their future free construction allowance based upon the company's past investment in their area. In the future, such customers will have to pay the entire difference between the free construction allowance for the basic street lighting pole and fixture and the ornamental pole and fixture as a construction payment. It is found and concluded that $320 is a just and reasonable figure for free construction allowance for new street lighting customers.

5. The Cities have also proposed that the company be required to provide an alternate rate for street lighting service which would allow a municipality to pay the entire cost of installing a new street lighting fixture and then pay a rate which does not include a return on the pole and fixture. The company presently has such a rate which is applicable only to those owned by the Colorado Highway Department. Although the scope of issues in this matter is sufficiently broad to encompass the relief requested by the Cities, it is the conclusion of the Examiner that the record in this matter, both in the original hearing and upon remand, does not contain a discussion of this particular issue which would justify granting the requested relief, and that the proposal should not be adopted in this proceeding.

6. The present approximate average gross distribution investment per customer for each rate class and the amount that should be established as the required Free Construction Allowance for each new customer for each rate class, is as follows:

RATE CLASS	FREE CONSTRUCTION ALLOWANCE
Residential General (R, UR)	$ 239
Residential Heating (RH, URH) Residential Demand (RD, URD)	800
General Commercial Lighting (GCL)	357
Small Lighting and Power (SLP) General Lighting and Power (GLP)	5,734
Large Lighting and Power (LLP)	94,719
Irrigation Power (IP)	1,552
Street Lighting (RAL, CAL-1, CAL-2, SL, SSL, HL)	320

7. The Cities have proposed that the company should be required to update the free construction allowances within 30 days, as opposed to the 90-day period proposed by the company, after a Commission decision in a general rate case becomes effective. There is no reason why the free construction allowances should be allowed to lag for up to three months after a new cost-of-service study has been reviewed by this Commission, and such proposal should be adopted in order to avoid any undue lag in revision of the free construction allowance inasmuch as increased costs will show up in computation of extension line costs, causing an excessive construction payment by the customer.

8. The fifth paragraph under General Provisions of Applicant's proposed rules and regulations, which are appended to Exhibit No. 26 as Sheet No. 42 provides as follows:

> "In unusual circumstances where, because of the application of the provisions of this policy, either Applicant for service or Company would be unduly burdened, or where extensions of unusually great size or complexity are involved or where Special Contract Service customers are involved, Company reserves the right to deal with such situations independently on their own merits and without reference to the provisions hereof."

Such provision, which contains no objective standards of application, renders the rest of the policy nugatory and should be stricken from the proposed tariff. Such "unusual circumstances" may be dealt with by filing a special tariff or an application for approval of a special tariff.

Likewise, the provision on proposed Sheet No. 51 that:

> "Company reserves the right to determine appropriate Free Construction allowances in situations involving extensions to Applicants of unusual size or load characteristics without regard to the above table."

should be deleted from the filing to be hereinafter recommended to be ordered.

The EXCEPTIONS provision proposed by the company in its proposed Tariff Sheet No. R50 provides as follows:

> "In situations where the extension is of such length and the prospective customer(s) revenue temporarily or permanently to be derived therefrom is so limited as to make it doubtful whether necessary fixed costs on the investment would be earned, Company reserves the right either to refuse to construct said extension or to require Applicant or Applicants to pay Company, in advance, all construction costs and, in addition, contract to pay Company annually an amount to cover the cost of depreciation, taxes, operation and maintenance of such facilities." (Emphasis added).

Such provision should be approved only upon the condition that the emphasized language be removed, inasmuch as there is no clear and objective standard expressed and the Company is allowed to refuse service entirely.

9. Considering the policy of the Commission stated in Decision No. C81-752, with regard to allocating costs to those responsible for the incurrence of such costs, it is found and concluded that the installation changes proposed for gas and electric meters in Application No. 32845 in Exhibit No. 3 and No. 5 are just and reasonable and should be allowed to go into effect.

Finally, the revised Gas Service Rules and Regulations proposed by the company in Exhibit No. 4 should be allowed to be placed into effect only after elimination of the words ". . . either to refuse to construct said extension or . . ." in the fifth line of the EXCEPTIONS provision on Sheet No. R25, which should be eliminated for the same reasons stated with regard to Sheets Nos. 42 and 50.

10. Pursuant to the provisions of 40-6-109, CRS 1973, it is recommended that the Commission enter the following Order.

O R D E R

THE COMMISSION ORDERS THAT:

1. Applicant Public Service Company of Colorado shall, within ten (10) days from the effective date of this Order, file with this Commission a new set of the revised tariff sheets which were a part of or appended to Exhibits 3, 4, 5 and 26 in this proceeding but which have been accurately and completely revised to reflect the findings and conclusions contained in the foregoing Recommended Decision. Such filings shall be accompanied by a new Advice Letter but may be made without any necessity of further notice to the public of the filing thereof, this decision being fully self-executing.

2. This Recommended Decision shall be effective on the day it becomes the Decision of the Commission, if such be the case, and is entered as of the date hereinabove set out.

3. As provided by 40-6-109, CRS 1973, copies of this Recommended Decision shall be served upon the parties, who may file exceptions thereto; but if no exceptions are filed within twenty (20) days after service upon the parties or within such extended period of time as the Commission may authorize in writing (copies of any such extension to be served upon the parties), or unless such Decision is stayed within such time by the Commission upon its own motion, such Recommended Decision shall become the Decision of the Commission and subject to the provisions of 40-6-114, CRS 1973.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Loyal W. Gunderson
Examiner

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