

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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IN THE MATTER OF THE APPLICATION)
OF WESTERN GAS SUPPLY COMPANY TO)
MODIFY ITS PURCHASED GAS ADJUSTMENT)
TARIFF PROVISIONS.)

APPLICATION NO. 34814

IN THE MATTER OF THE APPLICATION)
OF PUBLIC SERVICE COMPANY OF)
COLORADO TO PLACE INTO EFFECT)
CERTAIN REVISED TARIFF SHEETS)
RESPECTING THE CALCULATION AND)
RECOVERY OF PURCHASED GAS COSTS.)

APPLICATION NO. 34815

RECOMMENDED DECISION OF
EXAMINER ARTHUR G. STALIWE

August 23, 1988

Appearances: James K. Tarpey, Esq.,
Thomas R. O'Donnell, Esq.,
Denver, Colorado,
on half of Applicant;

Anthony Marquez, Esq.,
Sue E. Weiske, Esq.,
Assistant Attorneys General,
Denver, Colorado,
on behalf of
The Office of Consumer Counsel;

Mark W. Gerganoff, Esq.,
Assistant Attorney General,
on behalf of the
Staff of the Commission.

STATEMENT OF THE CASE

The above applications reflect gas cost adjustments by the respective companies as required by this Commission in Decision Nos. C78-414, R82-1406, C84-1530, and C85-419. As pertinent here, Application No. 34814 relates to the purchased gas adjustment charged by West Gas from December 26, 1986 through July 25, 1987, as well as from July 26, 1987 through September 30, 1987, and for a period beginning October 1, 1987. Application No. 34815 relates to the gas cost adjustment charged

by Public Service Company from December 24, 1986 through July 23, 1987, as well as from July 24, 1987 through September 30, 1987, and beginning October 1, 1987.

Originally scheduled for hearing on January 5, 1988, these applications were continued at the request of the various parties until June 1, 1988, continuing through June 6, 1988. Final briefs and related materials were filed on July 13 and 14, 1988. At that time the matter was taken under advisement.

Pursuant to the provisions of § 40-6-109, C.R.S., Examiner Staliwe now transmits to the Commission the record and exhibits of said hearing, together with a written recommended decision containing findings of fact, conclusions, and order.

FINDINGS OF FACT

Based upon all the evidence of record, the following is found as fact:

1. As a result of a study completed by an independent consultant, Strategic Decisions, both Western Gas Supply Company and Public Service Company of Colorado embarked upon a program of diversifying their gas supplies, rather than relying upon two major interstate pipeline companies for the overwhelming bulk of their natural gas supplies. Accordingly, in 1983 the companies began acquiring natural gas supplies from sources other than Colorado Interstate Gas Pipeline and Northwest Pipeline. The avowed purposes for the diversification program were to:

- a. Increase the number of gas suppliers to foster competitive gas rates;
- b. Having more than one interstate pipeline would foster competitive, non-discriminatory transportation rates;
- c. Increased gas sources would hopefully reduce risk in delivery;
- d. Diversification would provide a balance of both short and long-term contracts.

Both companies were able to engage in this diversification because during the early 80's the amount of natural gas availability increased markedly, reducing wellhead prices and creating, in effect, a buyer's market.

Additionally, certain efforts at the national level by the Federal Energy Regulatory Commission helped to create a situation wherein utilities could purchase gas from remote pipelines and have that gas transported over the facilities of other pipelines (for a transportation charge), creating regional markets for the acquisition of natural gas.

2. The Colorado Office of Consumer Counsel takes issue with West Gas and PSCo for both engaging in the practice of transporting natural gas (as opposed to selling it at retail), as well as the prudence or reasonableness of entering into additional contracts for natural gas supply when existing pipelines were fully capable of meeting all known needs, arguably at a lower cost.

The evidence in this matter establishes that West Gas and PSCo realize between 47¢ and 49¢ profit per mcf from the transportation of natural gas, versus only 27¢ to 29¢ profit per mcf from the sale of that same gas. Accordingly, OCC argues, there exists an economic incentive for West Gas and PSCo to engage in transportation rather than retail sales, with the possible result that as large industrial customers leave retail sales to purchase directly from the wellhead and then have PSCo transport that gas, other customers (i.e., residential customers) who have no such ability to deal directly with wellhead producers will be left with an ever increasing portion of the fixed costs associated with the system, thus driving up rates for the residential customer even as certain business customers reduce their costs. The possibility that the higher revenues received for transportation may inhibit certain customers from utilizing transportation, versus remaining a retail customer, is not discussed. Rather, it is the OCC's desire that Public Service Company should unilaterally decline to accept as transportation customers those businesses or industries the utility believes could not economically switch from retail natural gas, and compel those businesses or industries to remain retail customers. Only those businesses or industries believed to have the economic ability to switch to alternate fuels, or actually by-pass the utility's gasworks, should be allowed to become transportation customers. As opined by OCC's witness, it is believed that certain customers whose only alternatives are fuel oil or No. 1 diesel could have their rates raised and still remain with natural gas, while other customers could not change from natural gas on any economical terms. Others who might be able to switch from natural gas might nonetheless remain because natural gas is a cleaner burning fuel, and this virtue alone might keep them on the system as retail customers, argues the OCC.

3. As noted in Appendix 3 to the WestGas/PSCo brief, in FERC's final rule and statement of policy pertinent to the issue of transportation, that agency stated:

Non-discriminatory access to self-implementing transportation services under Section 7 of the NGA and Section 311 of the NGPA is a cornerstone of the Commission's final rule.

Pipelines that provide transportation services on a non-discriminatory basis are assuring that the benefits of competitively priced gas supplies and transportation services are being made available to the broadest number of consumers. In addition, opening up transmission capacity on an across-the-board basis helps to achieve a traditional utility ratemaking goal of maximizing throughput in order to spread fixed costs over the greatest number of customers.

On the other hand, permitting pipelines to unduly discriminate or to exclude certain consumers from transportation services is inconsistent with the fundamental goals of consumer protection and competition in the Natural Gas Act and the Natural Gas Policy Act. . . .

* * *

Examples of discrimination that the Commission finds to be undue or preferential within the contexts of self-implementing authorizations are refusals to transport for existing sales or non-fuel switchable customers and preference for affiliates. . .

WestGas/PSCo Appendix, No. 3, pp. 31, 494 and 31,495. From the testimony presented in this matter, as well as the FERC statement above, it does not appear that the goal of prohibiting transportation, or at least limiting it to only those customers truly positioned to leave utility gas service, is legally possible. Indeed, § 40-3-106, C.R.S., may also prohibit any distinctions based upon the comparative wealth or other economic factors of a given business or industry in determining whether it should be offered transportation service. Further, there is no evidence that PSCo is soliciting sales customers to become transportation customers.

4. Regarding gas diversification, the evidence in this matter establishes that WestGas and Public Service Company have entered into certain contracts for the provision of natural gas in addition to the two major interstate pipelines used previously. As pertinent to PSCo, in 1986 it entered into a ten-year contract with KN Energy for the provision of natural gas. At the time it entered into that contract with KN Energy, KN's rates for both commodity charges and demand charges were between 80¢ and 85¢ per mcf lower than just the commodity charge asked by CIG. PSCo's decision to contract with KN was based, in part, upon KN's prior ten-year history of overall lower gas rates when compared to CIG.

Further, after contracting with KN PSCo noted the following changes in CIG practices and prices:

- a. CIG agreed to a schedule of reduced minimum percentages of system demand;
- b. The above was extended to other utilities besides PSCo;
- c. CIG agreed to transport gas, firm, and interruptible, at competitive prices anywhere on its system;
- d. CIG lowered its commodity rates for natural gas to a point just below (i.e., 5¢ - 7¢ per mcf lower) KN.

There is no doubt in the minds of PSCo executives that the KN contract had a net beneficial effect upon the PSCo - CIG relationship, and the record bears this out. It was only recently, a year and a half after the contract was signed, that the CIG commodity rate dropped below KN rates for both commodity and demand, and then by only a small amount.

5. On the WestGas system in central and western Colorado some gas supplies were objected to by the OCC as being excessively high, higher than the CIG or NWPC rates for the same gas. However, as noted in proprietary exhibits, any initially higher costs were eclipsed by subsequent increases by the major pipelines, and in most cases the rates from other gas suppliers were lower to begin with, and remained thus for many years. Only recently, have major pipeline rates dropped to, or below, the other suppliers prices. How long this will remain the case is conjecture. Clearly, however, the large majority of contracts entered into resulted in net savings to WestGas.

CONCLUSIONS

1. Granting the application of PSCo and WestGas in this latest PGA/GCA proceeding is appropriate.

2. Pursuant to the provisions of § 40-6-109, C.R.S., the Examiner recommends that the following order be entered.

ORDER

THE COMMISSION ORDERS THAT:

1. Application No. 34814, Western Gas Supply Company, for the period December 26, 1986 through September 30, 1987, and October 1, 1987 is granted.

2. Application No. 34815, Public Service Company of Colorado, for the period December 24, 1986 through September 30, 1987 and October 1, 1987 is granted.

3. As per the suggestion of staff, WestGas and PSCo need not file reports monthly, but may do so quarterly commencing October 1, 1988.

4. 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.

5. As provided by § 40-6-109, C.R.S., copies of this Recommended Decision shall be served upon the parties, who may file exceptions thereto; but if no exceptions are filed within 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, C.R.S.

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

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Arthur G. Stalio
Examiner

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