

(Decision No. C91-58)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

RE: WATER SERVICES FURNISHED BY)
RESPONDENT, CASCADE PUBLIC SERVICE)
COMPANY.)

DOCKET NO. 89C-194W
COMMISSION ORDER

January 16, 1991

STATEMENT

BY THE COMMISSION:

On December 11, 1990, Administrative Law Judge Ken F. Kirkpatrick entered Decision No. R90-1666 which granted, in part, the request for attorneys' fees and costs filed by the Law Firm of Geddes and MacDougall, P.C., Colorado Springs, Colorado for representation of Deborah Crane and the Cascade Homeowners Association, Intervenor in this show cause docket. Recommended Decision No. R90-1666 concluded that the law firm had represented general consumer interests, had done so in a matter that was exceptional in nature and materially contributed to the decision of the Commission, and charged fees and kept expenses to a level that was reasonable. The recommended decision further said that the representation of Crane and the association by the law firm was a blend of both public and private interests, in equal parts and that, accordingly, any award of attorneys' fees and costs should be reduced by 50 percent of the amount requested. The recommended decision stated that the awarded attorneys' fees and costs should be in the amount of \$4,257.43 and it ordered Cascade Public Service Company (Cascade), the Respondent in this show cause docket, to remit that sum to the Law Firm of Geddes and MacDougall, P.C., Colorado Springs, Colorado within 30 days of the effective date of the decision.

On December 21, 1990, Cascade filed exceptions to Decision No. R90-1666 as specifically took exception to the order for the payment of any attorneys' fees and costs incurred on behalf of Deborah Crane and the Cascade Community Association.

On January 3, 1991, Intervenor Deborah Crane filed a response to the exceptions of Cascade and on January 3, 1991, a "counter affidavit by M. E. MacDougall" was also filed in opposition and reply to the "filing of exception" of Cascade. Also on January 3, 1991, Harland E. Jacobson, another Intervenor in this docket, filed a response to the exceptions of Cascade.

The Commission notes that the responses to Cascade's exceptions, filed by Crane, MacDougall, and Jacobson not only disputed the exception of Cascade itself, but also sought relief from the recommended decision by increasing the award of attorneys' fees and costs from 50 percent to 100 percent. Mr. Jacobson's response also suggested that the Commission specifically preclude Cascade from surcharging to its rate payers any of the costs of an attorneys' fees and costs award. The Commission cannot consider these latter requests since they were not timely made by exceptions to the recommended decision.

The Commission has considered and reviewed the recommended decision of Administrative Law Judge Kirkpatrick, the exception filed thereto filed by Cascade, and the responses to the exception filed by Crane, MacDougall, and Jacobson together with the record in this docket. Based upon our review, we find that the exception to the recommended decision does not set forth sufficient factual or legal grounds which would justify any modification of Recommended Decision No. R90-1666. Accordingly, the exception will be denied, and Recommended Decision No. R90-1666 will be adopted as the decision of the Commission.

THEREFORE THE COMMISSION ORDERS THAT:

1. The pleading entitled "Filing of Exception" filed on December 21, 1990, by Cascade Public Service Company and directed to Decision No. R90-1666, dated December 11, 1990, is denied.

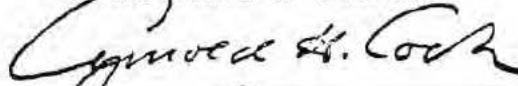

2. Decision No. R90-1666, dated December 11, 1990, is adopted as the Decision of the Commission.

3. The 20-day time period provided for by § 40-6-114(1), C.R.S., to file an application for rehearing, reargument, or reconsideration begins on the first day after the mailing or serving of this Decision and Order.

This Decision shall be effective 30 days from the date of its issuance by the Commission.

DONE IN OPEN MEETING January 16, 1991.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO



Commissioners

COMMISSIONER RONALD L. LEHR'S
TERM EXPIRED JANUARY 8, 1991.

JEA:srs:3224J:jkm