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**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO**

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THE APPLICATION OF PUBLIC	)	
SERVICE COMPANY OF COLORADO FOR	)	DOCKET NO. 93A-561G
AN ORDER AUTHORIZING IT TO	)	COMMISSION ORDER
EFFECT CERTAIN UPWARD REVISIONS	)	AUTHORIZING UPWARD REVISIONS
IN GAS RATES UPON LESS THAN	)	OF GAS RATES
STATUTORY NOTICE.	)	

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Mailed Date: October 29, 1993  
Adopted Date: October 28, 1993  
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**BY THE COMMISSION:**

This matter comes before the Colorado Public Utilities Commission ("Commission") for consideration of several pleadings: (1) Application of Public Service Company of Colorado ("Public Service"), (2) the Office of Consumer Counsel's ("OCC") Notice of Intervention and Protest, (3) Public Service's Motion For Leave to File Answer and Request for Waiver of Response Time, (4) Public Service's Answer to Protest, (5) Greeley Gas Company's Motion to Intervene, Entry of Appearance and Request for Hearing, (6) Public Service's Response to Motion to Intervene and Request for Hearing by Greeley Gas Company, and (7) Greeley Gas Company's Withdrawal of Request For Hearing.

**STATEMENTS, FINDINGS, AND CONCLUSIONS**

On September 30, 1993, Applicant, Public Service Company of Colorado ("Public Service" or "Company"), filed a verified application seeking a Commission order authorizing it, without formal hearing,

to place into effect on November 1, 1993, tariffs resulting in an increase to its existing natural gas rates now on file with the Commission. Applicant states that its proposed increase in rates is to reflect increased costs of gas purchased from its suppliers and to pass on to Applicant's customers the increased costs to purchase natural gas for resale.

The proposed tariffs are attached to the application, and affect Public Service' customers in the Front Range, Boulder, Northern, Home Light, San Luis Valley, Mountain, Pueblo, and Western Divisions; WestGas' customers in the Central and Western Systems; Iowa's customers in and around the Towns of Sterling and Atwood, Logan County, Colorado. The filing of this application was brought to the attention of Applicant's affected customers by publication in *The Denver Post*, a newspaper of general circulation in the area affected.

The purpose of the upward revision of Applicant's gas rates is to reflect an increase in the level of natural gas costs charged Applicant based on rates to be in effect October 1, 1993, applied to normalized purchase and sales volumes during the test period twelve months ended June 30, 1993.

The revisions of gas costs also reflects a realignment and consolidation of certain rate areas which, in previous similar applications, were treated separately. More specifically, Public

Service's Eastern, Mountain and San Luis Valley areas have been combined with the Iowa Electric (Sterling) area, as well as the WestGas Central System. This combination shall hereafter be referred to as the Eastern/Central area in this decision. The Eastern and Mountain and San Luis Valley areas of Public Service have virtually the same gas cost, and they were supplied by the Central System of WestGas.

Public Service's Western Division has been combined with what was previously known as WestGas' Western System which was the primary source of gas for Public Service's Western Division. This combination shall hereafter be referred to as the Western Division/System in this decision.

Public Service represents that certain operating and maintenance costs, depreciation expense, taxes and return associated with the WestGas investment in plant (hereafter be referred to as WestGas merger costs) constitute a portion of Public Service overall revenue requirements. Pending a final decision in Public Service's current rate case before this Commission in Docket No. 93S-001EG (wherein these amounts are proposed to be collected by Public Service through a Merger Rider), Public Service has included these amounts in the instant Application.

Public Service notes that to the extent that the Merger Rider is approved in Phase I of Docket No. 93S-001EG, an application to remove these amounts from the adjustment clause amounts proposed

herein will be filed with a proposed effective date simultaneous with the effective date of any such Merger Rider.

The effect of the revisions is an increase of \$53,030,109, to Applicants' Eastern/Central Area customers, an increase of \$2,202,355 to Applicants' Western Division/System customers, an increase of \$3,075,726 to Central System customers and an increase of \$22,2797 to Western System customers. The net effect of the revisions in Public Service GCA, the PGA pertaining to WestGas and the CGA pertaining to Iowa Electric is an overall increase of \$58,330,987 above the currently effective GCA, PGA and CGA based on the test period volumes.

The proposed tariffs attached as Appendix A will increase annual revenues by \$58,330,987, which is an increase of 10.67 percent.

The Office of Consumer Counsel ("OCC") filed a Protest and Entry of Appearance to the Application. It requests that the Application be set for hearing because the increase requested in the Application is large, and the method used by Public Service to pass-on the cost of this increase (i.e., the GCA) has not been reviewed recently by the Commission for its reasonableness. Public Service filed a motion requesting leave to file a reply to the protest and further requested a waiver of the response time to the motion. The Commission will grant Public Service's motion and consider its reply to the OCC protest.

Greeley Gas Company also filed a motion seeking leave to intervene as a matter of right or by permission, and further requested that the application be set for hearing. Greeley subsequently filed a withdrawal of its request for hearing. Public Service filed a response to Greeley Gas Company's motion as originally filed and requested that the motion be rejected. The Commission will grant Greeley Gas Company's motion to the extent that it seeks intervention.

Utilities generally must give thirty days notice prior to any change in their rates. However, under 40-3-104(2), C.R.S. (1993), utilities can request changes in rates on less than thirty days notice.

Decision No. R82-1406 (Application No. 34815), which sets forth the terms and conditions under which Public Service operates its GCA, assumes that changes to the GCA will be made on less-than-statutory notice. It provides, in part, that it shall file its application no later than five working days before the next Commission open meeting. The present application is such a request. The Company states that its current Application is no different than its past GCA applications, except that it filed the application early as a courtesy to other parties to allow them additional time to consider the application.

Rule 41(e)(1) of the Commission's Rules of Practice and Procedure, 4 CCR 723-1, provides that applications to place into effect

changes in the GCA on less than statutory notice are determined without formal hearing. Therefore, and for the reasons set forth herein, OCC's requests that this application be set for hearing will be denied.

However, it must be emphasized that the only determination being made here is to grant the application to file the tariffs to place the rates into effect on November 1, 1993. When applications like this are granted, there is no determination made that the changes in the underlying tariffs are just and reasonable, and none is made here. Moreover, and central to our decision here to grant the application, the Company's GCA tariff provides for an annual review of the GCA adjustments and that any inaccuracies or improprieties in the prior year's GCA filings can result in a refund to customers.

This Commission shall immediately institute the necessary steps to conduct such a hearing at which the propriety of the current tariff changes can be reviewed.

Public Service also requests a waiver of certain information requirements contained in its tariffs.<sup>1</sup> There are no objections made to this request. The tariff requirements at issue are primarily for the Commission's internal monitoring purposes. Requiring compliance with these provisions would not affect the rate changes made in this filing. Moreover, the Company notes that the Commission will soon issue its decision in Docket No. 93I-001EG. Based upon that decision

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<sup>1</sup>. See, PSCo P.U.C. No. 5, on Sheet No. 130B; WestGas P.U.C. No. 2, Sheet 94B; and PSCo P.U.C. No. 4, Sheet No. 6B.

the Company will make the appropriate filings in conformance with its tariffs. Based on this, the Commission has no objection to the information being omitted from this tariff filing.

It is within this Commission's discretion to permit changes in tariffs to be made without suspending the same pending hearing. We find that good cause has been shown to authorize the filing of tariffs on less-than thirty days notice, as Public Service is incurring the costs. Given our decision here to immediately institute a hearing under procedures already in place that will allow the Commission to review the justness and reasonableness of these changes, the Commission will allow the tariffs, which do not contain certain information, to go into effect. Our decision here to allow the tariffs to go into effect makes the waiver request moot.

Approximately \$28 million of the \$58 million increase is based upon Federal Energy Regulatory Commission ("FERC") approved rates.

This Commission is foreclosed under principles of federal pre-emption from reviewing the justness and reasonableness of those rates. However, issues other than FERC approved rates, including level of pipeline services and the approximately \$30 million in gas commodity costs of gas which are not FERC approved, are not preempted and this Commission is not foreclosed from reviewing these issues for justness and reasonableness. Therefore, the Commission will bring to its next open meeting Application No. 34815 for the purpose of setting a

procedural schedule for an annual review of the Public Service's GCA adjustments. This will provide protection for ratepayers.

As to the appropriateness of continuing to use a GCA mechanism, there have been a number of changes in the natural gas industry, particularly with FERC Order 636, that will cause this Commission to conduct a through review of regulated natural gas utilities' gas purchases and the use of GCA mechanisms. To this end, the Commission anticipates addressing this question of GCA mechanisms at its November 10, 1993, open meeting. Moreover, the annual review of GCA adjustments takes on a much more important role and will garner much attention by this Commission.

**THEREFORE THE COMMISSION ORDERS THAT:**

1. Public Service's motion for leave to File an Answer and Request for Waiver of Response Time are granted.

2. Greeley Gas Company's motion to intervene, as amended, is granted.

3. OCC's request for a hearing is denied.

4. The Public Service Company of Colorado Application to place into effect the proposed tariffs on November 1, 1993, is granted. Public Service shall file an advice letter and tariff sheets as



appended to this Decision to become effective November 1, 1993. Public Service shall take the steps outlined in this Decision concerning the Merger Rider.

This decision is effective on its Mailed Date.

ADOPTED IN OPEN MEETING October 29, 1993.

THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

Commissioners

COMMISSIONER CHRISTINE E. M. ALVAREZ  
DISSENTING.

COMMISSIONER CHRISTINE E. M. ALVAREZ DISSENTING:

I dissent from the decision of the majority to grant PSCo's application in its entirety without the benefit of a hearing on that portion of the rate increase request that falls squarely within our jurisdiction.

The matter before the Commission is a difficult one. In this case, PSCo, ratepayers, and the Commission find

themselves forced (by federal action to move toward deregulation of the natural gas industry) into the proverbial space between a rock and a hard place. My decision to dissent today is based in part on my concern over the continuing propriety of the gas cost adjustment mechanism. When the GCA mechanism was approved in 1978 (Decision No. C78-414), the gas industry was far different than it is today.

The Federal Energy Regulatory Commission ("FERC") through its Order 636 has implemented changes to the natural gas purchase and delivery system that render the current regulatory GCA mechanisms inappropriate--or at least partially so. Prior to FERC Order 636, the price of the gas commodity purchased by PSCo included all of the pipeline services "bundled" together in one price. The price of gas included all costs, through delivery, and the price was regulated by the FERC which reviewed rates for prudence. After FERC Order 636, the various services associated with buying natural gas and having it delivered, having been "unbundled" so that a company like PSCO must not only buy the commodity, but it must also arrange for the transportation and delivery of that gas. The FERC regulates the rates for pipeline services, but not the rates for the commodity itself.

Of the \$58 million increase sought by PSCo in the gas cost adjustment application before us, only \$28 million of the increased costs were for expenses incurred for FERC-regulated services. As explained in the majority decision, this Commission is preempted from second guessing FERC's decision on the reasonableness of rates for these services. Also, if the FERC determines that the rates paid by PSCo for these services are unreasonable, PSCo [hence its ratepayers] will be entitled to a refund for the excessive amounts paid. PSCo is currently a party to rate cases before the FERC in an attempt to secure reasonable rates for itself and its customers for pipeline services.

However, \$30 million of the costs which PSCo has requested be passed through to ratepayers in the instant application are regulated solely by this Commission. I believe, with considerable certainty, that PSCo has negotiated to secure the best prices possible for its purchases of natural gas. However, I do not think it is possible for the Commission to meet its sworn obligation to assure "just and reasonable" rates by approving an increase in rates that it has not scrutinized.

The majority has decided today to place the considerable burden of a 9 percent rate increase squarely on the backs of ratepayers before examining the evidence to determine whether or not the increased costs were prudently incurred.

The majority explains that its decision to "pay now" and "ask questions later" is warranted because, if the increased costs which PSCo has certainly incurred are ultimately found to be reasonable, the ratepayers will be required to pay anyway. They reason that it is better to take ratepayers' money now, in a kind of forced escrow account, in order to avoid the "shock" of requiring payment of accrued costs later. It is my opinion that there are many ratepayers in Colorado who really need to keep as much money as possible in their pockets today--just to meet basic necessities. These people pay their debts as they are incurred, but do not have the luxury to put money away against the possibility of debt that may be incurred in the future. For many of these people, a 9 percent increase in their Public Service bill is going to be very difficult--if not impossible--to bear.

PSCo claims that it will be financially impaired if it is not allowed to pass these costs through immediately.

I am as concerned about PSCo's financial integrity as the next Commissioner. But there is absolutely no evidence on the record in this docket to substantiate that claim by the Company. I doubt that Public Service Company of Colorado would have been placed in financial jeopardy by this Commission's decision to review the prudence of PSCo's expenses prior to asking the

ratepayers to shoulder the burden wrought by increases in costs wrought by the new federal experiment in deregulation. PSCo's "cash flow" might have been impacted, though not damaged, by the month or two delay required for expedited review of its request. But PSCo's reasonably-incurred expenses would all be recoverable.

On the other hand, if the "cash flow" of a senior citizen on a fixed income is impaired by 9 percent, the associated "impact" may be loss of food or heat and the damage, most assuredly, will not be "refundable" or "recoverable" if we find after full review that our assumptions were all or partially incorrect. Administrative expedience does not outweigh the obligation to assure, as closely as possible, the justness and reasonableness of rates before they are imposed, and the dire consequences that may arise from a failure to do so.

I agree with the majority's decisions to allow the interventions of the Office of Consumer Counsel and Greeley Gas Company. I agree with the majority that it is imperative that we should immediately investigate and review the continuing validity, generally, of the gas cost adjustment mechanism. I agree with the majority that the Company has incurred increased costs which make it imperative that hearings regarding its requests for increased rates be conducted expeditiously. I

