(Decision No. C93-1469)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

| | | |
|---|---|---|
| RE: THE INVESTIGATION AND SUSPENSION OF TARIFF SHEETS FILED BY PUBLIC SERVICE COMPANY OF COLORADO, ADVICE LETTER NO. 1192-ELECTRIC, ADVICE LETTER NO. 477-GAS, AND ADVICE LETTER NO. 53-STEAM. | ) ) ) ) ) | DOCKET NO. 93S-001EG |

**RULING ON APPLICATIONS FOR REHEARING, REARGUMENT, OR RECONSIDERATION**

- - - - - - - - - - - - - - - - - - - -
Mailed Date: November 26, 1993
Adopted Date: November 22, 1993
- - - - - - - - - - - - - - - - - - - -

BY THE COMMISSION:

On October 27, 1993, we issued Decision No. C93-1346 ("Decision"), the initial decision on Public Service Company of Colorado's ("PSCo" or "Company") rate request made in Advice Letter Nos. 1192-Electric, 477-Gas, and 53-Steam. In accordance with the provisions of section 40-6-114(1), C.R.S., the Colorado Office of Consumer Counsel ("OCC"), the Colorado Business Alliance For Cooperative Utility Practices ("Alliance"), Climax Molybdenum Company ("Climax"), and PSCo timely filed applications for rehearing, reargument, or reconsideration ("RRR"). In addition, the Company filed a Motion For Scheduling Of Supplemental Hearing Date. The Company's motion essentially requested that we hold a rehearing to allow the parties an

opportunity to make an oral presentation regarding alleged errors in the Commission's calculation of the revenue requirement in the Decision. We granted the motion and conducted the rehearing in this matter on November 22, 1993. Now being duly advised on the applications for RRR, we grant the applications, in part, and deny them, in part, consistent with the discussion herein.

APPLICATION FOR RRR BY OCC

Ruling On Motion To Strike

The OCC first contends that we improperly considered Mr. Kelly's rebuttal testimony relating to changes in the federal corporate income tax rate. According to this contention, Mr. Kelly's testimony was an untimely modification to the historical test year, and violated the parties' due process rights. The OCC's application for RRR suggested that we either strike the testimony or require the Company to submit additional evidence for review by the Commission and the parties in a rehearing. We deny this request for modification of the Decision.

In the first place, we note that, at the hearing, the OCC did not object to Mr. Kelly's rebuttal relating to changes in the federal tax rate. The OCC objected only to the testimony concerning the Commanche baghouse and the effect of out-of-period stock issuances on the Company's revenues. Similarly, the Motion to Strike in the OCC's Statement of Position concerned only these

same two issues. No evidentiary objection or Motion to Strike was ever made to the testimony regarding changes in the federal tax laws. Therefore, the current suggestion to strike this evidence is untimely, and should be denied for this reason alone.

Moreover, the Company's revised calculation of the effects of changes in the federal tax rates is set forth in Appendix A to the Motion For Scheduling Of Supplemental Hearing Date. That calculation was fully explained to the parties and the Commission at the November 22, 1993 rehearing. At the November 22, 1993 rehearing, the OCC clarified that it was now familiar with the Company's calculation of the effects of the federal income tax changes and agreed with the calculations. Therefore, the OCC's request is effectively moot. For these reasons, the OCC's first grounds for reconsideration will be denied.

Contributions In Aid Of Construction ("CIAC")

The OCC also argues that we erred in rejecting its proposed modifications of the deferred taxes relating to contributions in aid of construction. In response to the OCC's arguments, we note that our decision on the CIAC for the first half of 1989 (*i.e.*, that there was no "first recovery" of the tax expense since these expenses were not part of any test year used in the setting of rates) is not inconsistent with our treatment of the tax "benefits" related to pension funding and the annualization of

certain lease payments. Nor is our ruling on CIAC inconsistent with the approval of the Company's "catch-up" proposal. We note that our rulings on each of these issues (*i.e.*, pension funding, annualization of certain lease payments, and the "catch-up" proposal) was based upon the evidence submitted by the parties. No party offered evidence that there would be double recovery of expenses by adoption of the Company's proposals with respect to these issues.

With respect to CIAC, however, the Company and the OCC disagreed as to whether the Company had already recovered these expenses in rates. Evidence was presented on this specific issue. Based upon the evidence of record, we concluded that the Company's proposal would not result in double recovery. The evidence does not indicate that our rulings on any of these issues are inconsistent or incorrect.

The OCC also contends that, with respect to the negotiated rate reductions for 1987 and 1988, our ruling assumes that the parties would have reached the same settlement even if they had known of the mistaken flow-through accounting for CIAC. This allegation is incorrect. We do not engage in speculation as to how past negotiations would have been affected if the parties had known of the incorrect accounting for CIAC.[1] Our ruling is based

[1] In fact, the OCC's position appears to imply that it would have bargained for greater rate reductions in 1987 and 1988 had it known of the mistake concerning CIAC. We note that the rate reductions under the settlement were based upon formulas, not specific dollar amounts. Since the agreed-upon

upon the evidence which indicates that ratepayers were compensated through rate decreases for the previously mistaken accounting treatment of CIAC in 1987 and 1988. For these reasons, and the reasons stated in the Decision, we reaffirm our ruling that the OCC's position on this issue should be rejected.

Off-System Sales

We finally discuss the OCC's request to reconsider Mr. Peterson's proposed adjustment to annualize historical test year revenues associated with off-system sales. Essentially, the OCC contends that, since other costs and operations associated with the Colorado-Ute acquisition were annualized, off-system sales associated with the acquisition should likewise be annualized. We again reject this position. In the Decision, we held that the Company should not be penalized in this case for reasonable projections made in the acquisition proceeding. We note that the OCC's proposed $1,999,355 adjustment for the historical test year was also based upon the Company's projections in the acquisition docket.[2] We reiterate that it would be inappropriate to penalize the Company for projections made in the Colorado-Ute case.

---

formulas were not based upon any particular revenues or expenses (*e.g.*, expenses associated with CIAC), we are not persuaded that the OCC would have either negotiated for or achieved greater rate reductions but for the incorrect accounting treatment of CIAC.

[2] The $1,999,355 adjustment was derived by subtracting the margin implicit in the Company's *pro forma* revenue adjustment from the margin projected in Docket No. 91A-589EG.

Moreover, since the proposed adjustment for off-system sales is based upon a projection made in a previous proceeding, we are unpersuaded that it would maintain the relationship between test year revenues and expenses.[3]

APPLICATION FOR RRR BY ALLIANCE

The Alliance disagrees with our determination that a fully distributed cost methodology (for assigning direct and indirect costs to nonregulated services) should be developed and presented in Docket No. 93I-098E. Instead, the Alliance suggests that a rulemaking docket should be established for the purpose of adopting cost allocation standards applicable to all gas and electric utilities engaging in nonregulated activities. We agree with the Alliance and now modify the Decision accordingly.

The Alliance correctly points out that a rulemaking proceeding would enable the Commission to adopt cost allocation principles for all utilities which engage in nonregulated activities. Moreover, we find that Docket No. 93I-098E, PSCo's electric integrated resource planning proceeding, is not the most appropriate forum to consider this issue. Therefore, we now rule that development of cost allocation principles or standards relating to utilities' nonregulated activities will be

[3] To the extent other requests in the OCC's application for RRR are not specifically discussed herein, these requests are denied for the reasons stated in the Decision.

investigated in a future rulemaking docket to be initiated by the Commission.[4]

APPLICATION FOR RRR BY CLIMAX

Climax first requests reconsideration of the calculation of the 4.12 percent Interim Gas Rider shown on Page 1 of Attachment B to the Decision. Climax states that this rider includes a $14,855,000 rider (the 2.77 percent Equalization Rider) which was not previously apportioned against transportation customers. The Commission finds that Climax is correct in this assertion, and will modify the rider to eliminate this unintended effect. Not only has this rider not been previously applied to transportation customers, but it has not been previously applied to customers in Rate Area 3, the Western Division.

In order to correct this situation, the Commission will order the following three riders to be applied to PSCo's gas rates instead of the original two. First, the Commission will retain the 2.77 percent Equalization Rider and apply it only to those rate classes to which it is presently applied. This rider will collect $14,855,000 of the total base revenue change. This rider

[4] We take no position regarding the specific principles or standards which should be considered for adoption in the rulemaking proceeding. For example, after investigation in the future docket, we may conclude that cost/benefit considerations require less than detailed cost allocation standards in the rules (*e.g.*, the adopted rule could simply require gas and electric utilities to develop and submit a fully distributed cost method for consideration in all Phase I filings).

may be eliminated in Phase II of this rate case where appropriate revenue requirements can be apportioned among all PSCo's rate classes. Next, the Commission will accept the 4.65 percent WestGas Merger Rider shown on page 2 of Appendix A to PSCo's Motion For Scheduling Of Supplemental Hearing Date. This rider will collect $26,089,329 and will be applied only to PSCo Base Sales Rates. Finally, the Commission will establish a 1.20 percent rider to collect the remaining $7,064,553 of the base revenue change, and this rider will be applied to the rates of all sales and transportation customers of PSCo. By establishing these three riders, the Commission will assure that only the increase allowed in the rate case will be applied to the rates of transportation customers.

Climax also requests reconsideration in order to determine whether Attachment B to the Decision actually reflects the intent of the Commission as to the WestGas Merger Rider. The WestGas Merger Rider does not explicitly appear on Attachment B except to show the removal of the $26,089,329 attributable to this rider from the calculation of the 4.12 percent rate case rider. To that extent, the calculations on Attachment B reflected the intent of the Commission. The Merger Rider itself is only mentioned on page 98 of the Commission's Decision where a figure of 4.70 percent is stated. As noted above, this figure has been refined to 4.65 percent in PSCo's Motion, and the Commission accepts that

refinement.

APPLICATION FOR RRR BY THE COMPANY

Future Test Year

The Company first requests that we modify the Decision by accepting the future test year for ratemaking purposes. The arguments advanced in the application for RRR are the same arguments offered at the hearing. We carefully considered all these contentions when issuing the Decision, and now affirm our finding that the future test year should not be approved for ratemaking in this proceeding. However, some of the comments in the application require response and clarification.

On page 6 of the application for RRR, the Company suggests that the Decision is inconsistent in its holdings regarding the existence of attrition. We first concluded that the Company is not facing such a serious threat of attrition as to justify use of a future test year (page 35 of Decision). However, in approving a year-end rate base, we held that there was some attrition beyond the control of the Company (page 40 of Decision). The Company argues that these two findings are inconsistent. We disagree.

The specific holding regarding attrition with respect to the future test year was that, ". . . the company is not facing a serious threat of attrition which cannot be appropriately

addressed in other ways," (emphasis added). In this finding, we specifically acknowledged, consistent with the ruling on year-end rate base, that there was some evidence of attrition. Nevertheless, we held that the attrition confronting the Company was not so substantial as to justify the drastic remedy of a future test year. Our approval of year-end rate base is, in our view, the appropriate means to address the attrition evidenced at the hearing. The evidence did not indicate that attrition was so serious as to support use of a future test year. In summary, no inconsistency exists in the Decision with respect to these findings and conclusions.

The Company also suggests (page 8 of application) that we improperly rejected the future test year based upon concepts of "comfort" and "flexibility." This assertion is incorrect. In fact, the Decision (page 37) stated that a current test year might provide "comfort" and "flexibility" where concerns exist regarding use of a historical test year. The Decision does not imply that the future test year was disapproved because of concepts of "comfort" or "flexibility." We emphasize that the future test year was rejected because:

1. We agreed with Intervenors that, for ratemaking purposes, a historical test year with *pro forma* adjustments is superior to the future test year. *See* discussion regarding

superiority of historical test year, pages 26-27 of Decision.

2. The Company did not demonstrate that good grounds exist for using a future test year. This gap in the Company's evidence was significant, especially since the historical test year had worked well in the past, and the evidence did not show that historical methods were not representative of the rate effective period in this case.

3. We agreed with Intervenors' criticisms of the Company's future test year. *See* discussion on pages 27-31 of Decision. For example, Intervenors pointed out that the future test year was based upon corporate plans and objectives. The Intervenors also noted that, under the forecasting process employed by PSCo, there are incentives for the Company to manipulate its forecasts and projections.

In brief, the Company did not meet its burden of proving that a future test year should be used, instead of a historical method with *pro forma* adjustments. Neither did the Company meet its burden of proving that its future test year was sufficiently reliable to be used for ratemaking purposes.

Cost of Equity

The Company's application for RRR with respect to our cost of

equity determinations reiterates arguments made at hearing. These contentions were adequately addressed in the Decision. In response to the request for reconsideration, we restate our conclusion that our rulings, including the holding on cost of equity, will enable the Company to maintain its financial integrity. Indeed, we emphasize that objective analysis at the hearing indicated significantly lower costs of equity than 11.0 percent. We adjusted those results upwards for the express purpose of preserving the Company's financial integrity.

The Company's primary complaint on RRR appears to be that our ruling will not allow it to enhance its financial position (*e.g.*, improve its bond rating from BBB+ to A). We reaffirm our holding that the overall effect of our rulings, including our return on equity determinations, will give the Company an adequate opportunity to maintain its dividend and its financial integrity. A higher return, especially in light of current conditions in capital markets, simply to ensure better financial results for the Company would not be fair to ratepayers. Our ruling, which deliberately adjusted objectively derived results significantly upwards in favor of the Company, gives adequate consideration to the necessity of maintaining PSCo's financial well-being.

New Load Annualization

The Company argues that our rejection of its New Load

Annualization adjustment, which reflected reduced retail sales, is inconsistent with our acceptance of adjustments reflecting increased wholesale sales. This assertion is erroneous. In the first place, we note that the adjustment reflecting increased sales (*i.e.*, 1,123 GWh for new wholesale contracts) was made as part of the Colorado-Ute acquisition adjustments. That is, adjustments to revenues, expenses, and investments to account for the Company's acquisition of Colorado-Ute were proposed by the Company and accepted by the Commission. Since these Ute adjustments were made by the Company, it was also necessary to account for the increased wholesale sales. However, the Company's proposal to reduce PSCo sales for the loss of certain customers was a selective adjustment. As explained in the Decision, the proposed adjustment did not account for factors tending to increase its sales. No inconsistency exists in our decision on this issue. The Company also insists that our denial of this adjustment will distort cost allocation and rate design analysis, as well as jurisdictional splits. These specific arguments are Phase II issues, and should not be decided here. If the Company believes Phase II distortions are occurring, it should raise these concerns by an appropriate pleading in the Phase II docket.

Disallowance of AGA Dues

PSCo seeks reconsideration of the disallowance of 46.71 percent of PSCo's dues to the AGA. The Commission believes

that the categories of expense recommended for disallowance by Staff Witness Kwan are appropriate. However, PSCo points out that a portion of AGA's expenses are funded by interest income, and argues that only the portion funded by member dues should be subject to disallowance, in which case the disallowance would be reduced from 46.71 percent to 45.11 percent. The Commission accepts this correction, and will reduce the disallowance accordingly.

Phase II Issues

The Company reasserts its request that it be allowed to update the test period in its Phase II filing. We reaffirm our prior ruling denying this proposal. In the first place, we agree with Staff's contention that a new test year for Phase II would likely result in relitigation of issues decided in this proceeding and in duplication of efforts made here. Moreover, we are unpersuaded of the necessity for updating the test year. To the contrary, we find that rate design and cost allocation should be based upon the same revenue requirement decided in this docket.

The Company also requests that the Phase II filing date be extended to April 1, 1994 in order to allow cost-of-service studies to be performed. This suggestion is reasonable and will be granted. We encourage the Company to continue its efforts to coordinate the "Pre-Phase II" task force. Since we are continuing

the Phase II filing to April 1, 1994, we do not believe it necessary to schedule a Phase II prehearing conference in December 1993, as suggested in the Company's application for reconsideration. A prehearing conference will be scheduled after Phase II has been formally initiated by the filing of proposed tariffs.

Electric Cost Adjustment (ECA) Modification

The Commission agrees with the Company's application for RRR that replacing the term "projected energy cost" with "energy cost" is confusing because the term "energy cost" already appears elsewhere in the ECA tariff. We do not, however, accept PSCo's suggestion that "projected energy cost" be replaced by "current energy cost" because the word "current" is a part of the term "current test year" and hence is related to the concept of combining forecasted and historical data. In this instance, the concept in question involves only historical data. Therefore, the Commission proposes to use the term "historical energy cost" in place of "projected energy cost."

We now order the Company to make the following changes in its ECA tariffs:

1. The definition of "projected energy cost" should be deleted from both the Fourth Revised Sheet No. 140 and the Sixth Revised Sheet No. 55.

2. The term "projected energy cost" should be replaced by "historical energy cost" everywhere it appears in the ECA tariffs for both PSCo and Home Light and Power Company.

3. The section entitled "Projected Energy Cost" on both the Third Revised Sheet No. 140A and the 147th Revised Sheet No. 55A should be deleted and replaced by the following:

Historical Energy Cost

a. The Historical Energy Cost will be equal to the Actual Energy Cost for the previous 12-month period ending June 30, divided by the total kilowatt-hour sales for the same period, with appropriate adjustments.

b. A revised Historical Energy Cost will be effective beginning October 1 of each year, as appropriate. In addition, the Company may request a revision in its current Electric Cost Adjustment whenever the total costs recoverable through the ECA change by one mill ($0.001) per kilowatt-hour or more during the ECA-effective year.

c. The Historical Energy Cost will be calculated to the

nearest one one-hundredth of one mill ($0.00001) per kilowatt-hour.

PSCo is directed to file new tariff sheets which reflect the changes mandated above within 30 days of the effective date of the order.[5]

Other Matters

The Company finally requests that we explicitly acknowledge the change in depreciation rates used in calculation of electric steam production expenses. The filing by the Company in this case lengthened the depreciable life used in calculation of electric steam production to 45 years. In fact, our determination of the revenue requirement in the Decision incorporated this change. The application for RRR simply requests that, for future tax and other purposes, we expressly recognize the change. We now do so in this discussion.[6]

RULING ON COMPANY'S CALCULATION OF
REVENUE REQUIREMENT EFFECTS OF DECISION NO. C93-1346

[5] At the open meeting, the Commission has indicated that it will conduct a general reexamination of the ECA in a future docket.

[6] The Company's application for RRR raised other issues not specifically discussed herein. We deny those requests for reconsideration based upon the reasons stated in the Decision.

In its Motion For Scheduling Of Supplemental Hearing Date, the Company attached Appendix A,[7] which is its calculation of the revenue requirement effects of the issues decided in Decision No. C93-1346. (The Company suggests that the calculations contained in the Decision are incorrect.) Staff submitted a response to Appendix A on November 18, 1993. *See*, Staff's Response To Motion For Scheduling Of Supplemental Hearing Date. With two exceptions relating to advertising and the exclusion of loss or gain from Appliance Repair, Staff agrees with the Company's calculations. No other party objected to Appendix A. Now being duly advised in the matter, we adopt the contents of Appendix A in place of Attachment B to the Decision, with the following exceptions: (1) the disallowed amount of dues placed below the line attributable to the AGA shall be reduced from 46.71 percent to 45.11 percent; and (2) we reaffirm our calculation of the advertising expense as found in Decision No. C93-1346, instead of the amount contained in Appendix A. (Appendix A is attached to this decision.)

Also, based upon the evidence contained in the record as revised on November 22, 1993, we adopt the calculations attributable to appliance repair as contained in Appendix A. In our view, the Company's method of calculating the loss or gain attributable to appliance repair, as explained at the November 22,

[7] A copy of Appendix A was marked as Exhibit A and admitted into evidence at the hearing on November 22, 1993.

1993 rehearing, is the most appropriate.

THEREFORE, THE COMMISSION ORDERS THAT:

1. The Motion For Scheduling Of Supplemental Hearing Date And For Waiver Of Response Time was granted in hearing November 22, 1993.

2. The application for rehearing, reargument, or reconsideration by the Colorado Office of Consumer Counsel is denied.

3. The application for rehearing, reargument, or reconsideration by the Colorado Business Alliance For Cooperative Utility Practices is granted consistent with the above discussion.

4. The application for rehearing, reargument, or reconsideration by Climax Molybdenum Company is granted consistent with the above discussion.

5. The application for rehearing, reargument, or reconsideration by Public Service Company of Colorado is granted only to the extent consistent with the above discussion, and in all other respects is denied.

6. The calculation of the revenue requirement effects of

Decision No. C93-1346, as reflected in Appendix A, is approved except for the amounts associated with American Gas Association dues and advertising.

7. Public Service Company of Colorado is hereby directed to file by November 30, 1993 appropriate tariff sheets to reflect a General Rate Schedule Adjustment in the amount of 3.33 percent applicable to all electric base rate schedules. This General Rate Schedule Adjustment shall be filed to become effective upon one day's notice.

8. Public Service Company of Colorado is hereby directed to file by November 30, 1993, appropriate tariff sheets to reflect a General Rate Schedule Adjustment in the amount of 1.20 percent applicable to all gas base rate schedules, including transportation base rates. This General Rate Schedule Adjustment shall be filed to become effective upon one day's notice.

9. Public Service Company of Colorado is hereby directed to file by November 30, 1993 appropriate tariff sheets, effective upon one day's notice, to reflect a General Rate Schedule Adjustment in the amount of 4.65 percent applicable to all Sales gas base rate schedules. This General Rate Schedule Adjustment shall not be applicable to transportation customers.

10. Public Service Company of Colorado is hereby directed to retain the 2.77 percent gas Equalization Rider and apply it only to those rate classes to which it is presently applied.

11. Public Service Company of Colorado is hereby directed to file by November 30, 1993, appropriate tariff sheets to reflect a General Rate Schedule Adjustment in the amount of 13.81 percent applicable to all steam base rates. This General Rate Schedule Adjustment shall be filed to become effective upon one day's notice.

12. Consistent with the above discussion, PSCo is hereby directed to file, within 30 days of the effective date of this decision, new tariff sheets reflecting the approved changes to the Electric Cost Adjustment.

13. Except as specifically modified in this decision, the provisions of Decision No. C93-1346 shall remain in effect.

14. The 20-day period provided for in section 40-6-114(1), C.R.S. within which to file applications for rehearing, reargument, or reconsideration to this decision begins on the first day following the mailing or serving of this decision. The provisions of this decision and Decision No. C93-1346, to the extent not modified herein, shall not be stayed pending the filing

of applications for rehearing, reargument, or reconsideration.

This order is effective upon its Mailed Date.

ADOPTED IN OPEN MEETING November 22, 1993.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

__Commissioners