

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

1999 SEP 21 PM 4:43

DOCKET NO. 99S-293G

**RE: THE INVESTIGATION AND SUSPENSION OF TARIFF SHEETS FILED BY
PUBLIC SERVICE COMPANY OF COLORADO WITH ADVICE NO. 550 - GAS**

STIPULATION AND SETTLEMENT AGREEMENT

*file
ICFC*

Public Service Company of Colorado ("Public Service") and the Staff of the Commission ("Staff"), collectively referred to herein as "Parties," hereby state that they have resolved by settlement all issues raised by Staff or which could have been raised by Staff in this proceeding. This Stipulation and Settlement Agreement ("Stipulation") sets forth all of the terms and conditions of such settlement.

I. INTRODUCTION

1. On May 18, 1999, Public Service filed Advice Letter No. 550 - Gas, proposing certain changes to Sheet No. 50 of its Colorado PUC No. 6 - Gas Tariff. The purpose of the filing was to revise the Gas Cost Adjustment ("GCA") tariff provisions to allow Public Service to directly fix natural gas prices for a portion of its winter gas supply portfolio, and to allow Public Service to include the costs of financial derivatives in the definition of "Actual Gas Cost," thereby allowing Public Service to recover the costs of such financial derivatives from its natural gas customers through the GCA. The purpose of these revisions is to provide Public Service with an additional tool with which it will be able to "fix" the price of contracted natural gas supplies during specific periods of time, effectively

converting those prices from market index-based prices, and thus create gas price stability for a portion of Public Service's natural gas supply portfolio. As represented in the direct testimony of Kurtis J. Haeger, submitted on behalf of Public Service as an attachment to Advice Letter No. 550 – Gas, Public Service has been fixing the prices of its gas supplies indirectly through its gas suppliers as part of its effort to reduce exposure to gas price volatility in accordance with its Price Volatility Mitigation (“PVM”) Plan, as described in its last two annual Gas Purchase Plans submitted in Docket Nos. 97P-375G and 98P-243G. Mr. Haeger states that Public Service desires to engage in hedging transactions directly with banking institutions or trading companies to fix gas supply prices under its PVM Plan, and thereby skip the “middleman” supplier, in order to increase efficiency, to improve timing and consequently to save costs.

2. The Colorado Public Utilities Commission (“Commission”) entered an order (Decision No. C99-580), with a mailed date of June 9, 1999, suspending the effective date of the tariffs and setting the matter for hearing before an administrative law judge on October 5, 1999. Staff intervened on July 8, 1999. Peoples Natural Gas Company, a Division of UtiliCorp United Inc., (“Peoples”) filed a request for permissive intervention on June 30, 1999. By Recommended Decision mailed July 19, 1999, Administrative Law Judge Ken F. Kirkpatrick denied Peoples' intervention but granted Peoples leave to participate as *amicus curiae*.

3. Staff and Public Service have engaged in settlement negotiations and have agreed to the terms and conditions set forth in this Stipulation. The Parties state that the

results of the compromises reflected herein are a just and reasonable resolution of the disputed issues in this proceeding and that reaching agreement as set forth below by means of a negotiated settlement is in the public interest. The Parties respectfully request that the Administrative Law Judge approve this Stipulation and recommend that the Commission accept and approve this Stipulation.

II. PROVISIONS RESOLVING ISSUES IN THIS PROCEEDING

The Parties stipulate and agree as follows:

4. The costs of and savings from prudent hedging activities may be recoverable through the GCA. The Parties agree that the purpose of hedging is to reduce the exposure of Public Service's sales customers to fluctuations in the price of gas.

5. Public Service's purpose in hedging its index-priced gas supply contracts is related solely to implementation of its Price Volatility Mitigation ("PVM") Plan, as set forth in its annual Gas Purchase Plan. Under such hedging activity, Public Service purchases and holds the financial derivative contracts only through the delivery month of the underlying physical gas purchase transaction. Speculation with ratepayer funds, defined as purchasing and selling financial derivatives for financial gain, is prohibited. Financial gain generated with the use of ratepayer supplied funds is not an appropriate goal for Public Service to pursue through the use of financial derivatives. Public Service shall not be permitted to recover through the GCA the costs of using financial derivatives for speculating with ratepayer funds. If a question arises as to whether a particular transaction is speculation with ratepayer funds, the burden is on Public Service to prove that such speculation did not occur.

Public Service will have the burden of explaining any variances to the PVM Plan in the Gas Purchase Report. Clear language prohibiting speculation with ratepayer funds must appear in the Prohibited Uses section of Public Service's Gas Supply Risk Management Policies and Procedures ("RMPP") manual. Clear language prohibiting speculation with ratepayer funds must appear in the Employee Agreement attached as an appendix to the RMPP manual.

6. The annually filed Gas Purchase Plan ("GPP") must contain at least the following trading limits: (a) the percentage of Public Service's gas supply that can be fixed using financial derivatives; (b) the months that Public Service will fix the price; and (c) individual authorization limits. The RMPP manual may incorporate by reference, in Appendix E thereto, the trading limits contained in the GPP.

7. A confidential copy of the RMPP manual will be filed with the Commission under seal within 30 days after this Stipulation is approved by the Commission. The Staff will not object if Public Service requests extraordinary confidential protection for the RMPP manual. The Staff agrees that in the unlikely event that extraordinary confidential protection is not granted, Public Service will be entitled to the return of the RMPP manual. If substantive amendments are made to the RMPP manual, Public Service will notify the Commission within 15 days.

8. Public Service shall file with its annual Gas Purchase Report ("GPR") a completed table in the form of the Financial Derivatives Report Format attached hereto as Appendix A, setting forth the information required regarding each hedge transaction. Additionally, Public Service will retain all invoices, workpapers, and internal reports

associated with the hedge transactions for Staff review. Any limit excession, as defined in Appendix E and Section 3.7 of the RMPP manual, will be reported and explained in the Portfolio Management Plan Report in Exhibit 3 of Public Service's annual GPR filing.

9. Public Service does not anticipate any increased financial risk associated with the use of financial derivatives. Public Service agrees not to claim in testimony or otherwise in any gas rate proceeding that any risk associated with trading natural gas-based financial derivatives should be considered in the determination of the cost of equity recoverable in Public Service's gas rates. Public Service's reasonable and prudently incurred costs associated with the use of financial derivatives will be recovered in the GCA and subject to the GPR prudency review process.

10. Public Service's internal and external auditors currently review and report to Public Service's Audit Committee the status of the gas purchasing functions on a regular basis. Public Service will make available to Staff for inspection, upon request, the audit results which relate to gas hedging in the regular audits that are performed.

11. Unless Staff and Public Service execute a stipulation indicating their mutual agreement to continue the program for a longer period of time, and such stipulation is approved by the Commission, Public Service will file an application with the Commission, within three years after this Stipulation is approved by the Commission, requesting continuation of the above-referenced tariff provisions or requesting termination of the use of gas supply financial derivatives on behalf of ratepayers. Staff may conduct a prudency review and audit in conjunction with the filing of the application. Public Service reserves all

its rights to terminate the program or to submit additional tariff changes not inconsistent with the intent of this Stipulation.

12. The Parties agree that, upon approval of this Stipulation, the tariff sheet filed with Advice Letter No. 550 - Gas should be permanently suspended by the Commission and Public Service should be directed to file, on not less than one day's notice, Revised Sheet No. 50, which is identical in all material respects to the tariff sheet attached hereto as Appendix B. The Parties further agree that expedited approval of this Stipulation by the Commission is in the public interest, as it would allow Public Service to begin directly fixing natural gas prices for a portion of its gas supply portfolio for the 1999-2000 winter heating season. The Parties pledge to support any motion to expedite the Commission's approval of this Stipulation.

III. GENERAL PROVISIONS

13. Except as otherwise set forth herein, all issues which were or could have been raised by the Parties hereto have been resolved and this Stipulation constitutes a comprehensive settlement. The signatories to this Stipulation agree that any position asserted which is not specifically addressed in this Stipulation is hereby resolved.

14. This Stipulation shall not become effective until the issuance of a final Commission order approving the Stipulation, which Order does not contain any modification of the terms and conditions of this Stipulation which is unacceptable to any of the Parties hereto. In the event the Commission modifies this Stipulation in a manner unacceptable to either party hereto, that party shall so notify the Commission and the other party to this

Stipulation in writing within ten (10) days of the date of the Commission order. If this Stipulation is not approved in its entirety or is approved by the Commission with modifications, terms or conditions which are unacceptable to either party hereto, then this Stipulation shall, at the option of such party, be considered null and void and of no force and effect in this or any other proceeding. In the event that this Stipulation is not approved, this Stipulation, as well as the negotiations or discussions undertaken in conjunction with the Stipulation, shall not be admissible into evidence in this or any other proceeding.

15. Approval by the Commission of this Stipulation shall constitute a determination that the Stipulation represents a just, equitable and reasonable resolution of all issues, which were or could have been contested among the Parties hereto in this proceeding.

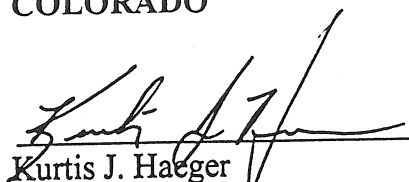
16. The Parties to this Stipulation state that reaching agreement in this docket as set forth herein by means of a negotiated settlement is in the public interest and that the results of the compromises and settlements reflected by this Stipulation are just, reasonable and in the public interest. The Parties further state that approval and implementation of the compromises and settlements reflected by this Stipulation will result in savings to all concerned by avoiding litigation. Both Parties hereto pledge to support this Stipulation and urge the Commission to approve same.

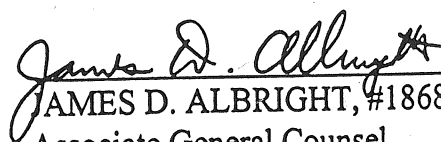
17. This Stipulation may be executed in counterparts, each of which when taken together shall constitute the entire agreement.

18. The Parties agree to a waiver of compliance with any requirements of the Commission's rules to the extent necessary to permit all provisions of this Stipulation to be carried out.

DATED this 21ST day of September, 1999.

**PUBLIC SERVICE COMPANY OF
COLORADO**

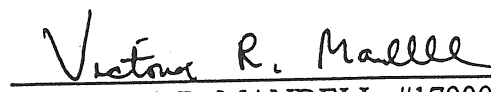

Kurtis J. Haeger
Director, Gas Business Support


JAMES D. ALBRIGHT, #18685
Associate General Counsel
New Century Services, Inc.
1225 17th Street, Ste. 600
Denver, Colo. 80202

Attorney for Public Service Company
Of Colorado

**STAFF OF THE PUBLIC UTILITIES
COMMISSION**

Sandra Johnson Jones
Financial Analyst IV


VICTORIA R. MANDELL, #17900*
Assistant Attorney General
Business and Licensing

Attorney for Public Utilities Commission

1525 Sherman Street, 5th Floor
Denver, Colorado 80203
Telephone: (303) 866-
FAX: (303) 866-
*Counsel of Record

APPENDIX A

APPENDIX B

NATURAL GAS RATES
GAS COST ADJUSTMENT

APPLICABILITY

All rate schedules for natural gas service are subject to a Gas Cost Adjustment to reflect the cost of gas purchased from Company's suppliers. The Gas Cost Adjustment amount will be subject to annual changes to be effective on a prorated basis beginning October 1 of each year. The Gas Cost Adjustment for all applicable rate schedules is as set forth on Sheet No. 50H, and will be added to the Company's Base Rate for billing purposes.

DEFINITIONS

Account No. 191. An account under the Federal Energy Regulatory Commission System of Accounts, as required by Rule 25 of the Commission's Rules of Practice and Procedure, used to accumulate actual gas supply costs, and corresponding actual revenues in a given period, such as a Gas Purchase Year, resulting in a net under-or over-recovery to be amortized in the next GCA Effective Period.

Actual Gas Cost. The amount recorded as Well Head Purchases in Account 1800, Field Line Purchases - 1801, Gasoline Outlet Purchases - 1802, Transmission Line Purchases - 1803, City Gas Purchases - 1804, Exchange Gas - 1806, Gas Price Management Costs in Account 1807-54, Gas Withdrawn from and Delivered to Storage - 1808, Gas Used for Products Extraction - 1811, Take/Pay Buy-out payments in Account 1813-12, and Storage Gas Lost and Unaccounted in Account 1823.

Base Gas Cost. A rate component of the GCA, expressed in mils per Dth, used in the calculation of the GCA which reflects the cost of gas commodity and Upstream Services included in the Company's Base Rates for sales gas and gas transportation service.

Base Rate(s). The Company's currently effective rates for sales gas and gas transportation service as authorized by the Commission in the Company's last general rate case.

Current Gas Cost. A rate component of the GCA, expressed in mils per Dth, which reflects the cost of gas commodity and Upstream Service projected to be incurred by the Company during the GCA Effective Period.

(Continued on Sheet 50A)

ADVICE LETTER
NUMBER _____

DECISION
NUMBER _____

MANAGING DIRECTOR,
Regulatory Administration

ISSUE
DATE _____

EFFECTIVE
DATE _____

CERTIFICATE OF SERVICE

I hereby certify that on this 21st day of September, 1999, an original and three true and correct copies of the foregoing document, entitled "STIPULATION AND SETTLEMENT AGREEMENT," was hand delivered to:

Bruce Smith, Director
Colorado Public Utilities Commission
1580 Logan OL2
Denver, CO 80203

and a copy was placed in the United States Mail, postage prepaid and addressed to:

Richard L. Corbetta, Esq.
Denman & Corbetta, P.C.
600 Seventeenth St., Suite 1015N
Denver, CO 80202

Michael Zimmerman
Public Utilities Commission
1580 Logan Street, OL2
Denver, CO 80203

Mr. Dennis Odell
UtiliCorp United, Inc.
2533 N. 117th Avenue, Ste 300
Omaha, NE 68164-9618

Robert Bergman
Public Utilities Commission
1580 Logan Street, OL2
Denver, CO 80203

Sandy Johnson Jones
Public Utilities Commission
1580 Logan Street, OL2
Denver, CO 80203

Morey Wolfson
Public Utilities Commission
1580 Logan Street, OL2
Denver, CO 80203

Randy Garrouette
Public Utilities Commission
1580 Logan Street, OL2
Denver, CO 80203

Anthony Marquez
Assistant Attorney General
1525 Sherman Street, 5th Floor
Denver CO 80203

Bruce Mitchell
Public Utilities Commission
1580 Logan Street, OL2
Denver, CO 80203

David Beckett
Assistant Attorney General
1525 Sherman Street, 5th Floor
Denver CO 80203

Vinson Snowberger
Public Utilities Commission
1580 Logan Street, OL2
Denver, CO 80203

Thomas Parchman
Assistant Attorney General
1525 Sherman Street, 5th Floor
Denver CO 80203

