

(Decision No. C80-675)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

IN THE MATTER OF THE PROPOSED)	
INCREASED RATE AND CHARGES)	INVESTIGATION AND SUSPENSION
CONTAINED IN TARIFF REVISIONS)	DOCKET NO. 1420
FILED BY PUBLIC SERVICE COMPANY)	
OF COLORADO, 550 - 15TH STREET,)	ORDER OF THE COMMISSION
DENVER, COLORADO UNDER)	SUSPENDING EFFECTIVE
ADVICE LETTER NO. 791-ELECTRIC,)	DATE OF TARIFFS AND
ADVICE LETTER NO. 293-GAS, AND)	NOTICE OF HEARING
ADVICE LETTER NO. 23-STEAM.)	

April 8, 1980

IMPORTANT NOTICE: ANY PERSON DESIRING TO TESTIFY OR MAKE A STATEMENT ONLY MAY DO SO SIMPLY BY APPEARING AT THE HEARING. THE LAW REQUIRES THAT ANY PERSON DESIRING TO ASK QUESTIONS OF A WITNESS, OR OTHERWISE PARTICIPATE AS A PARTY IN THIS RATE MATTER, MUST REQUEST PERMISSION FROM THE COMMISSION TO BE AN INTERVENOR (EVEN IF A PROTEST ALREADY HAS BEEN FILED). ANYONE DESIRING TO INTERVENE SHOULD READ THIS NOTICE CAREFULLY AND FOLLOW THE DIRECTIONS FOR BECOMING AN INTERVENOR. FOR FURTHER INFORMATION, PLEASE CALL 839-2370 (PUC CONSUMER OFFICE).

STATEMENT AND FINDINGS OF FACT

BY THE COMMISSION:

On March 26, 1980, Public Service Company of Colorado (hereinafter Public Service or Company or Respondent) filed with the Commission three advice letters which pertain to gas rates, electric rates and steam rates respectively.

The tariffs accompanying the three advice letters are as follows:

Advice Letter No. 791 - Electric

COLORADO P.U.C. NO. 5 - ELECTRIC

Colorado PUC Sheet Number	Title of Sheet	Cancel's Colorado PUC Sheet Number
First Revised 2A	Table of Contents	Original 2A
Second Revised 285	General Rate Schedule Adjustment	First Revised 285

Advice Letter No. 293 - Gas

COLORADO P.U.C. NO. 4 - GAS

Colorado PUC Sheet Number	Title of Sheet	Cancel's Colorado PUC Sheet Number
Thirteenth Revised 2	Table of Contents	Twelfth Revised 2
Second Revised 135	General Rate Schedule Adjustment	First Revised 135

Advice Letter No. 23 - Steam

COLORADO P.U.C. NO. 1 - STEAM

Colorado PUC Sheet Number	Title of Sheet	Cancel's Colorado PUC Sheet Number
Sixth Revised 2	Table of Contents	Fifth Revised 2
Second Revised 7	General Rate Schedule Adjustment	First Revised 7

With respect to the filing made pursuant to Advice Letters No. 791-Electric, No. 293-Gas, and No. 23-Steam, Public Service requests that the filings accompanying said advice letters become effective upon thirty days notice or on April 25, 1980.

Public Service, by Advice Letter No. 791-Electric, seeks an increase in electric revenues in an annual amount of \$56,290,000, to be effected by an across-the-board increase in base rates of 11.74 percent.

Public Service, by Advice Letter No. 293-Gas, seeks an increase in gas revenues in an annual amount of \$11,348,000, to be effected by an across-the-board increase in base rates of 2.77 percent.

Public Service, in Advice Letter No. 23-Steam, seeks an increase in steam revenues in an annual amount of \$659,000, to be effected by an across-the-board increase in base rates of 11.36 percent.

Public Service, in the three aforementioned advice letters, sets forth the financial condition of the Company and the impact of current economic conditions upon it. Boiled down to its essentials, Public Service states that the present rates are seriously inadequate and that presently effective rates of the Company are confiscatory. Accordingly, Public Service states that under the circumstances detailed in its advice letters, the Commission can discharge its constitutional and statutory responsibilities to all concerned only by permitting the tariff sheets accompanying its respective advice letters to become effective as requested on or before April 25, 1980.

The Commission is not unmindful of the overall inflationary economic climate that currently exists, and it recognizes further that utilities need adequate revenues to perform their statutory responsibilities in providing service. Public Service has indicated that in the event the tariff filings accompanying the three aforementioned advice letters are suspended and set for hearing, that it may be necessary to delay, or halt, present construction programs. Public Service states that delay will result in more expensive purchased power at higher cost than generation from the Company's other plants, or a combination of the two, with respect to the provision of electric service.

The economic climate in general, and particular circumstances of Public Service itself, do not confront this Commission with what might be considered a normal economic picture. The Commission must deal with economic reality, and it would be derelict in its responsibility if it did not fashion the procedural mechanisms available to it so as to minimize, to the extent possible, harmful economic results. The Commission likewise recognizes that when economic circumstances of thousands of customers are at stake, to permit a \$68,000,000 rate filing to become effective by mere operation of law, as Public Service requests, could have the serious effect of jeopardizing important participatory values.

The Commission further recognizes that were it to permit Public Service's filings to go into effect without hearings and suspensions, the revenues generated by the increased tariff rates would not be subject to refund. In the 1980 session of the Colorado General Assembly, it was anticipated that legislation would be introduced which would have provided a possible mechanism to allow the Commission to permit higher rates to go into effect based upon previously established regulatory principles, subject to later refund, in whole or in part, as a result of Commission hearings. A variation of this type of legislation was introduced which was not entirely in accord with what the Commission had anticipated. In any event, no legislation, in any form, was enacted by the

General Assembly which addressed the issue of interim rates subject to refund. That being the case, the Commission is confined by present law to either permitting rates, as filed, to go into effect by operation of law, without hearing and suspension (which rates would not be subject to refund), or to setting the filed rates for hearing and making a determination as to whether the filed rates, or some other rates, should be put into effect.

In its present filings, Public Service is not proposing any modification to its currently effective rate structures. In other words, Public Service is proposing across-the-board percentage increases. Public Service states that the filings are based on principles adopted in Decision No. C80-130 issued by the Commission in Investigation and Suspension Docket No. 1330 on January 22, 1980.

Public Service, in its March 26, 1980, advice letters, also stated that it intends to file a general rate case within the next six weeks i.e., in the early part of May, 1980. In its advice letters, Public Service implicitly recognized the likelihood that the Commission would set for hearing its May, 1980 general rate filings. It can reasonably anticipated that the May, 1980 general rate case filing be would involve issues addressing both the revenue requirement and rate design aspects of that filing. Thus, the Commission will have the opportunity to examine a full range of issues with regard to Public Service's May, 1980 filings. Thus, it will be seen that the Commission has examined rate structure in recently concluded I & S Docket No. 1330, and will be doing so again in 1980.

The Commission, on balance, has determined that it is in the public interest to set the March 26, 1980 tariff filings for hearing. However, the Commission also believes that in view of the extraordinary conditions surrounding this filing, an expedited hearing is necessary. First of all, the Commission cannot be unmindful of the fact that Public Service forcefully states that it is in an emergency situation with respect to its financial viability, and that any delay could very seriously jeopardize its ongoing operations, at an ultimately high cost to the general rate payers. Second, Public Service states that the instant filings essentially do no more than implement those regulatory principles established by the Commission in Investigation and Suspension Docket No. 1330 (even though Public Service is not in full accord with those principles). Third, as already indicated above, rate design issues are not reflected in the instant filings inasmuch as the proposed increases are across-the-board percentage increases.

In view of the foregoing, the Commission has decided that the scope of the hearing in this docket should be limited to two basic issues:

- (1) Do the instant filings, in fact, implement the regulatory principles established in Investigation and Suspension Docket No. 1330? and
- (2) Do the emergency financial conditions outlined by Public Service in its advice letters justify accelerated relief?

There is ample legal precedent for this Commission to confine the scope of a hearing to those issues which it believes need to be resolved in order for it to enter a decision. Judgements made by a regulatory body, such as this Commission, with respect to factors involving just and reasonable rates, are not made merely for the precise moment of the regulatory body's decision, but also for a reasonable length of time in the future. See New England Telephone and Telegraph Company v. Kennelly 78 R.I. 211, 80 A2d. 891, 894-895 (1951). In this regard the ratemaking function of this Commission is legislative in nature and the setting of rates is accomplished to operate in the future. See Mountain States Telephone and Telegraph Co. v. Public Utilities Commission, 176 Colo. 457, 464, 491 P.2d 582 (1971); Arizona Grocery Co. v. Atchison T. & S.F. Ry Co., 284 U.S. 370, 389 (1932); Southwest Gas Corporation v. Public Utilities Commission, 86 Nev. 662, 474 P.2d 379 (1970); Westwood Lake, Inc. v. Dade County, 264 S. 2d 7, 12 (Fla. 1972). Accordingly, the Commission is not legally required to reexamine the regulatory policies established in recently concluded Investigation and Suspension Docket No. 1330, but may limit the scope of inquiry to the utility's compliance therewith.

To summarize the effect of Public Service's three filings, Public Service seeks additional total revenues in the amount of \$68,297,000, which consists of \$56,290,000 for electric; \$11,348,000 for gas; and \$659,000 for steam revenues.

The proposed rate increases of Public Service are calculated on a test year ending December 31, 1979.

Pursuant to the provisions of CRS 1973, 40-6-111 (1), the Commission may, in its discretion, set the tariff filings herein for hearing, which has the effect of suspending the effective date of the tariffs for a period of 120 days. The same statute also provides that the Commission may, in its discretion, suspend the effective date of the tariffs for an additional 90 days. Thus, the power and authority of the Commission to suspend the effective date of the filed tariffs extends for a maximum period of 210 days, or in this docket, until November 21, 1980. If no new rates are established by the Commission by the aforesaid date in this docket, the tariffs filed by Respondent will become effective by operation of law.

Because of the important impact on the customers of Public Service, the Commission, on its own motion, states and finds that it should set the herein proposed tariff revisions for hearing and suspend the effective date thereof.

In the order to follow, the Commission will direct Public Service to file a summary of direct testimony and exhibits. The exhibits should indicate in detail the manner in which Public Service filings herein are in compliance with the regulatory principles established in Investigation and Suspension Docket No. 1330. The summary of testimony and exhibits should also detail the nature of the emergency financial and operating conditions faced by Public Service which would justify accelerated relief. Public Service's summary of direct testimony and exhibits are to be filed with the Commission on or before April 21, 1980. Public Service also shall be directed to mail or deliver copies of the summary of testimony and exhibits to all other parties of record and to the Chief of the Fixed Utilities Section of this Commission.

The Commission also will hereinafter order that any person, or party, including the Staff of the Commission, who intends to present evidence that Public Service's filings herein are not, in whole or in part, in compliance with regulatory principles established in Investigation and Suspension Docket No. 1330, or who intends to present evidence that the financial and operating conditions faced by Public Service do not amount to an emergency justifying accelerated relief, shall advise the Commission of this intention, in writing, on or before April 25, 1980. Said written advice shall set forth the area, or areas, wherein said person or party believes that Public Service's filings do not comply with the regulatory principles established in Investigation and Suspension Docket No. 1330 or the specific facts which would support the allegation that Public Service is not facing financial or operating emergency which would justify accelerated relief. At the option of the person or party, such written advice may be submitted in the form of a summary of testimony and exhibits.

The hearing in this docket will commence on April 30, 1980, at which time the Commission will receive oral testimony from Public Service's witnesses in its direct case. Cross examination of Public Service witnesses will follow immediately. Upon the conclusion of Public Service's direct case and cross examination thereof, the Commission will commence immediately to hear the direct testimony, if any, of the Staff of the Commission and intervenors who previously have advised the Commission, on or before April 25, 1980 in writing, of an intent to present evidence. Cross examination, and rebuttal, if any, shall follow immediately. It should be reiterated that any evidence received will be limited to the two issues set forth above, that is, compliance with the Investigation and Suspension Docket No. 1330 regulatory principles and the existence or nonexistence of emergency conditions justifying or not justifying accelerated relief.

In the order hereinafter, the Commission will provide for the receiving of public witness testimony by one of the hearings examiners assigned to the Commission. Public witness testimony, of course, will be recorded by a shorthand reporter and this testimony will be transcribed and immediately transmitted to the full Commission for its review. The Commission is cognizant of the fact that this arrangement may not be fully satisfactory to all people involved. However, the Commission is faced with the reality of an extra-ordinarily tight hearing schedule throughout the entire remainder of calendar year 1980, involving such matters, among others, of hearing a major rate case filed by the Mountain States Telephone and Telegraph Company, consideration of incremental pricing in implementation of the Public Utility Regulatory Policies Act of 1978, possible revision of master metering rules, and rehearings involving a major portion of the electric generic proceeding involving rate design. The Commission regrets it is physically impossible to personally hear every aspect of every case which comes before it.

An appropriate order will be entered.

O R D E R

THE COMMISSION ORDERS THAT

1. The herein matter with respect to electric tariffs filed by Public Service Company of Colorado on March 26, 1980, by Advice Letter No. 791 dated March 26, 1980, be, and the same hereby is, set for hearing.

2. The herein matter with respect to gas tariffs filed by Public Service Company of Colorado on March 26, 1980, by Advice Letter No. 293 dated March 26, 1980, be, and the same hereby is, set for hearing.

3. The herein matter with respect to steam tariffs filed by Public Service Company of Colorado on March 26, 1980, by Advice Letter No. 23 dated March 26, 1980, be and the same hereby is, set for hearing.

4. The effective date of the tariffs filed on March 26, 1980, by Public Service Company of Colorado under its Advice Letter No. 791-Electric dated March 26, 1980, be, and hereby is, suspended until November 21, 1980, or until further order of the Commission.

5. The effective date of the tariffs filed on March 26, 1980, by Public Service Company of Colorado under its Advice Letter No. 293-Gas dated March 26, 1980, be, and hereby is, suspended until November 21, 1980, or until further order of the Commission.

6. The effective date of the tariffs filed on March 26, 1980, by Public Service Company of Colorado under its Advice Letter No. 23-Steam dated March 26, 1980, be, and hereby is, suspended until November 21, 1980, or until further order of the Commission.

7. The test period in this docket shall be the 12-month period ended December 31, 1979.

8. Any person, firm or corporation desiring to intervene as a party in the within proceeding shall file an appropriate pleading therefor with the Commission on or before April 18, 1980.

9. Public Service Company of Colorado shall file with the Commission on or before April 21, 1980, ten copies of its summary of direct testimony and exhibits, which shall set forth the manner by which Public Service Company of Colorado, by the instant filings herein, is in compliance with the regulatory principles established in Investigation and Suspension Docket No. 1330. Any deviation from said established principles shall be prominently noted, and the reasons therefor shall be fully explained.

All in-period adjustments and/or out-of-period adjustments contained in said exhibits shall be separately footnoted and explained in detail showing the base figures used and methodology applied to said base figures to arrive at the in-period and/or out-of-period adjustments.

Public Service Company of Colorado also shall file with the Commission on or before April 21, 1980, ten copies of its summary of direct testimony and exhibits which set forth the emergency conditions by which Public Service believes it is entitled to accelerated relief.

10. Any person, or party, including the Staff of the Commission, who intends to present evidence that Public Service Company of Colorado's filings herein do not comply, in whole or in part, with the regulatory principles established in Investigation and Suspension Docket No. 1330, or who intends to present evidence that the financial or operating conditions of Public Service do not amount to an emergency justifying accelerated relief, shall so advise the Commission, in writing, on or before April 25, 1980. Said written advices to the Commission shall set forth the area, or areas, wherein said person or party believes that Public Service Company of Colorado filings do not comply, in whole or in part, with the regulatory principles established in Investigation and Suspension Docket No. 1330, or a summary of those alleged facts on which said person or party intends to rely for the proposition that the financial or operating conditions of Public Service Company of Colorado do not amount to an emergency justifying accelerated relief.

11. The within matter be, and hereby is, set for hearing as follows:

DATE: April 30, 1980

TIME: 10:00 A.M.

PLACE: Commission Hearing Room A
5th Floor - State Services Building
1525 Sherman Street
Denver, Colorado 80203

The order of hearing evidence shall be as outlined in the Statement and Findings of Fact above. The dates of May 1, 2, and 5, 1980, shall be reserved on the Commission calendar, if necessary.

12. Examiner Robert E. Temmer be, and hereby is, assigned for the purpose of hearing testimony from public witnesses as follows:

DATE: April 28, 1980

TIME: 10:00 A.M.
2:00 P.M.
7:00 P.M.

PLACE: Commission Hearing Room A
5th Floor - State Services Building
1525 Sherman Street
Denver, Colorado 80203

Testimony of public witnesses received by Examiner Robert E. Temmer shall be transcribed forthwith and transmitted to the Commission for its review.

13. The procedural directives herein may be modified, as appropriate, by subsequent order or orders of the Commission.

14. Further procedural directives of modifications thereto will be issued, as appropriate, by subsequent order or order of the Commission.

15. This Order shall be effective forthwith.

DONE IN OPEN MEETING the 8th day of April, 1980.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Ernest S. Miller

L. Duane Woodard
Commissioners

COMMISSIONERS DANIEL E. MUSE
NOT PARTICIPATING