

Decision No. C03-0184

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 02R-041ALL

IN THE MATTER OF THE PROPOSED REPEAL AND REENACTMENT OF THE RULES OF PRACTICE AND PROCEDURE, 4 CCR 723-1.

DOCKET NO. 02R-196G

IN THE MATTER OF THE PROPOSED REPEAL AND REINACTMENT OF THE RULES REGULATING GAS UTILITIES, 4 CCR 723-4.

DOCKET NO. 02R-238EG

IN THE MATTER OF PROPOSED RULES REGARDING COST ASSIGNMENT AND ALLOCATION FOR GOODS, SERVICES, AND BUSINESS OPERATIONS OF GAS AND ELECTRIC UTILITIES.

DOCKET NO. 02R-279E

IN THE MATTER OF THE PROPOSED REPEAL AND REENACTMENT OF THE RULES REGULATING ELECTRIC UTILITIES, 4 CCR 723-3.

**NOTICE OF TERMINATION OF RULEMAKING
PROCEEDINGS, AND ORDER GRANTING JOINT
MOTION TO TERMINATE DOCKETS**

Mailed Date: February 20, 2003
Adopted Date: February 12, 2003

I. BY THE COMMISSION

A. Statement

1. The above-referenced dockets concern the Commission's proposals to modify existing rules. Specifically, by prior orders issuing Notices of Proposed Rulemaking (NOPRs) the Commission opened these dockets to consider modification of the currently effective Rules

of Practice and Procedure, 4 CCR 723-1; the Rules Regulating the Service of Electric Utilities, 4 CCR 723-3; the Rules Regulating the Service of Gas Utilities, 4 CCR 723-4; and the Cost Allocation Rules for Electric and Gas Utilities' Nonregulated Services, 4 CCR 723-47.¹ Pursuant to those NOPRs, Administrative Law Judges for the Commission have conducted a number of hearings to take comment on the proposed rules.

2. On January 23, 2003, Aquila, Inc.; the Colorado Energy Assistance Foundation; the Colorado Office of Consumer Counsel; the Colorado Rural Electric Association; Kinder Morgan, Inc.; Public Service Company of Colorado; and Tri-State Generation and Transmission Association, Inc., filed their Joint Motion to Terminate Rulemaking Proceedings. The Joint Motion states that neither the proposed rules attached to the NOPRs--the proposed rules are voluminous--nor the NOPRs themselves identified the specific rule changes being proposed in these proceedings, or the reasons for specific changes to the current rules.

3. Furthermore, the Joint Motion states, at some of the rulemaking hearings in these dockets the parties have indicated their interest in conducting informal discussions with Commission staff regarding the proposed rules. For example, such discussions would enable staff to fully discuss specific proposed changes to existing rules, and the reasons for those proposed changes. Legal counsel advised commission staff, which is advisory staff in these cases, that staff cannot participate in off-the-record discussions regarding the proposed rules at issue while these formal on-the-record dockets are pending. Consequently, the Joint Motion requests that these rulemaking proceedings be terminated and that Commission staff be directed

¹ The proposals in these rulemaking dockets would also repeal the existing rules found at 4 CCR 723-8, 723-11, 723-17, 723-10, and 723-19.

to conduct informal meetings regarding potential changes to current rules prior to issuance of new NOPRs.

4. Alternately, the Joint Motion requests that the Commission terminate the rulemaking proceedings and issue new NOPRs that clearly identify changes to the existing rules and reasons for the proposed changes.

5. Now being duly advised in the premises, we grant the Joint Motion, to the extent it requests termination of the current rulemaking proceedings and that we direct staff to initiate discussions regarding the proposed rules. Termination of these proceedings will enable commission staff to hold informal discussions with interested persons regarding potential changes to commission rules. Such discussions will provide interested persons an opportunity to comment on any proposed rules to be issued by the commission in the future. Additionally, these discussions will assist interested persons in understanding any proposed rules suggested in subsequent rulemaking proceedings. Commission staff will conduct a number of informal meetings with interested persons prior to issuance of any new NOPRs. The director of the commission will send a letter to interested persons setting forth the schedule for those informal meetings on the various rules. That letter will also explain the procedure staff intends to follow in the informal meetings. Interested persons should participate in the informal meetings if they want to provide any input, or enter into discussion with staff, prior to the issuance of new NOPRs. After those meetings are concluded, the Commission intends to issue new NOPRs to revise the rules listed above.

II. ORDER

A. The Commission Orders That:

1. Rulemaking Docket Nos. 02R-041ALL, 02R-196G, 02R-238EG, and 02R-279E are terminated. All presently scheduled hearings and procedural requirements (e.g., due dates for written comments) in these dockets are vacated.

2. This Notice of Termination of Rulemaking Proceedings shall be filed with the Secretary of State for publication in the March 2003 edition of *The Colorado Register*.

3. This Order is effective immediately upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
FEBRUARY 12, 2003.**

(SEAL)



ATTEST: A TRUE COPY

Bruce N. Smith
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

GREGORY E. SOPKIN

POLLY PAGE

JIM DYER

Commissioners