

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 03A-436E

IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF
COLORADO FOR AN ORDER AUTHORIZING IT TO IMPLEMENT A PURCHASED
CAPACITY COST ADJUSTMENT RIDER IN ITS PUC NO. 7 - ELECTRIC TARIFF.

**ORDER DENYING APPLICATION FOR REHEARING,
REARGUMENT, OR RECONSIDERATION**

Mailed Date: August 12, 2004
Adopted Date: August 11, 2004

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for consideration of an Application for Rehearing, Reargument, or Reconsideration (RRR) filed by Public Service Company of Colorado (Public Service or Company) on July 15, 2004. The application requests reconsideration of Commission Decision No. C04-0720, issued June 29, 2004.

2. Public Service requested RRR because it maintains that Commission Decision No. C04-0720 created uncertainty for Public Service as to the notice requirements that pertain to compliance filings. Public Service requests that the Commission reconsider its decision so that the Commission might clarify the notice requirements that must be observed for a compliance filing. Public Service points out that it takes no issue with the waiver of notice and filing requirements the Commission granted in its decision.

3. Public Service argues that there is no statutory provision that requires the rate, determined after hearing by the Commission to be just and reasonable, to be re-noticed to the

public before it can take effect. Public Service goes on to argue that there is no statutory provision that requires that a utility must again provide 30 days' notice to the public to file tariffs that comply with the Commission's decision on an application at the end of a contested case. According to Public Service, there would be no purpose served by such a notice provision, because the Commission has already ruled on the utility's application and determined the just and reasonable rate that the Company should file.

4. Public Service points out that state statutes and the Commission's rules are silent as to the period of time that a utility has to file tariffs that comply with Commission orders after hearing. According to Public Service, when the Commission does not indicate a time certain for a compliance filing, the Commission requires the filing to be made on not less than one day's notice. Public Service argues that if the Commission fails to establish a specific time, then the utility should comply with the Commission order within a "reasonable period of time." According to Public Service, it filed its PCCA compliance filing on not less than one day's notice.

5. The Commission issued Decision No. C04-0476 in response to the method in which Public Service issued its compliance filing. It filed the revised tariff on the afternoon of May 28, 2004 for an effective date of June 1, 2004. The tariff was filed over the Memorial Day weekend, thus effectively resulting in a tariff filing on no notice.

6. To the extent Public Service requests clarification of what notice is required on such compliance filings on a going forward basis, absent a Commission rule or statutory requirement on the matter, we find such a request is better addressed in a rulemaking proceeding rather than here. Therefore, we deny the Application for RRR. We nonetheless encourage Public

Service to raise this issue during the upcoming electric and gas rulemaking hearings to remove the uncertainty regarding the proper notice on compliance filings.

II. ORDER

A. The Commission Orders That:

1. The Application for Rehearing, Reargument, or Reconsideration of Commission Decision No. C04-0720 filed by Public Service Company of Colorado is denied.

2. This Order is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
August 11, 2004.**

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners