

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 MODIFYING
DECISION NO. C04-0719**

Mailed Date: November 9, 2004
Adopted Date: October 27, 2004

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I. BY THE COMMISSION

A. Statement

1. On July 16, 2004, Public Service Company of Colorado (Public Service or Company) filed an Application for Rehearing, Reargument, or Reconsideration (RRR) of Commission Decision No. C04-0719. By Decision No. C04-1150, the Commission granted Public Service's RRR application and set for rehearing the Commission's decisions to cap

Purchased Capacity Cost Adjustment (PCCA) Rider cost recovery for the allowed contracts¹ and to require an Air Quality Improvement Rider (AQIR) credit amount of \$1,800,000 be used to calculate the 2004 PCCA.

2. Pursuant to Decision No. C04-1150, Public Service filed supplemental testimony on October 8, 2004. On October 20, 2004 Trial Staff of the Colorado Public Utilities Commission (Staff) filed supplemental answer testimony. Public Service, the Colorado Office of Consumer Counsel (OCC), Staff, and CF&I Steel, L.P., doing business as Rocky Mountain Steel Mills (CF&I), and Climax Molybdenum Company (Climax) attended a rehearing on this matter held on October 26, 2004. Oral Statements of Position were made at the conclusion of the rehearing by CF&I and Climax, Staff, and Public Service.

3. Now being duly advised in the matter, we modify our previous decisions regarding the cap on amounts allowed for PCCA cost recovery and the 2004 AQIR credit amount consistent with the discussion below.

B. Rehearing Issue: The PCCA Cap

4. Public Service requests that the Commission eliminate the PCCA cap and allow actual costs for the allowed contracts to be recovered through the PCCA. Public Service argues that the Commission “artificially” capped the amount of PCCA cost recovery by relying on the representations made in Hearing Exhibit 17, which is a mid-2003 budget estimate. Public Service asserts that it is difficult to accurately estimate costs for individual contracts because, for

¹ The “allowed contracts” are the contracts that are currently reflected in the Company’s base rates plus the contracts for the resources approved by the Commission in the Company’s 1999 Electric Resource Plan.

example, a one-hour difference between the assumed and actual availability of a facility can be a significant amount.

5. According to Public Service, its budget estimates are generally accurate. Public Service does not believe that the additional \$44 million, which is the difference between estimated maximum amounts, and the Hearing Exhibit 17 estimated amounts for each contract (*see* Rehearing Exhibit KTH-5 attached to Hearing Exhibit 29), will represent actual costs.

6. Public Service points out that no party has questioned the prudence of the costs. Additionally, Public Service contends that the PCCA mechanism should not be construed as a blank check because only the actual costs that it incurs would be passed through the PCCA.

7. On the other hand, Staff argues that the Commission should maintain the cap on individual contracts at the amounts represented in Hearing Exhibit 17. Staff contends that Public Service receives significant benefits from the authorization of the PCCA since it allows Public Service to recover costs without waiting for another rate increase. According to Staff, the PCCA addresses extraordinary costs that resulted from a unique circumstance.

8. Staff contends that an automatic recovery mechanism, such as the PCCA, is not prudent regulatory policy. Rather, Staff argues that Commission Decision No. C04-0476 is an appropriate regulatory balance. Although Staff asserts that the Commission should not reverse its decision to cap both individual contracts and the PCCA total cost recovery amount, Staff acknowledges that eliminating the individual contract caps but not the overall cap would give Public Service flexibility while maintaining a balance. Therefore, Staff alternatively proposes that the Commission eliminate individual contract caps but maintain the \$73.7 million cap for

maximum cost recovery through the PCCA for the period June 1, 2004 through December 31, 2006 if the Commission decides to modify its decision on the caps.

9. CF&I and Climax acknowledge that the Commission has already authorized a PCCA and urges the Commission to keep in mind the reasons CF&I and Climax oppose such a mechanism. Namely, that such a mechanism represents single-issue ratemaking and that adjustment clauses are not good regulatory policy. CF&I and Climax contend that the potential that an additional \$44 million in costs might be subject to PCCA cost recovery should give the Commission pause in any decision to eliminate the PCCA cap. According to CF&I and Climax, the additional amount that might be recovered through the PCCA is not necessarily insignificant. CF&I and Climax argue that the cap imposed by the Commission represents a reasonable balance and should not be eliminated. CF&I and Climax assert that the Company should manage its cost to meet that PCCA cap.

10. We agree with Public Service's arguments on this issue, therefore, we modify Decision No. C04-0719 by eliminating the PCCA caps and allowing actual costs for the allowed contracts to be recovered through the PCCA.

C. Rehearing Issue: The AQIR Credit Amount Used to Calculate the 2004 PCCA

11. At the hearing an oral stipulation was offered by Public Service and Staff (supported by the OCC, CF&I, and Climax took no position) agreeing to an AQIR credit amount for the seven months the PCCA is in effect in 2004 of \$1,050,000. The stipulating parties further agree that the PCCA rate that is currently in effect remain unchanged for the rest of 2004 and that the calculation of the PCCA Deferred Balance reflect an AQIR credit of \$1,050,000 for 2004 instead of \$1,800,000. CF&I and Climax take no position on the stipulation

12. We approve the stipulation.

D. Oral Motion for Extension of Time to File PCCA for 2005

13. During the October 26, 2004 rehearing, Public Service orally requested an extension of time until November 5, 2004 instead of November 1, 2004² to file an application to revise the PCCA. No party attending the proceeding objected.

14. We waive the response time and grant the oral motion.

II. ORDER

A. The Commission Orders That:

1. Decision No. C04-0719 is modified to indicate that the Purchased Capacity Cost Adjustment Rider cap amount is eliminated and Public Service Company of Colorado is allowed to recover actual costs for the allowed contracts through the Purchased Capacity Cost Adjustment consistent with the discussion above.

2. The stipulation regarding the amount of the Air Quality Improvement Rider credit to be used to calculate the 2004 Purchased Capacity Cost Adjustment Rider is approved consistent with the discussion above.

3. Public Service Company of Colorado's motion for extension of time to file an application to revise the Purchased Capacity Cost Adjustment is granted consistent with the discussion above.

4. Public Service Company of Colorado shall file tariff changes that comply with this Decision on not less than one day's notice after this Decision becomes effective.

² Decision No. C04-0476 requires Public Service to file a PCCA rider application on or before November 1 for a January 1 effective date utilizing a deferred balance as of September 30.

5. The 20-day time period provided by § 40-6-114(1), C.R.S., to file an application for rehearing, reargument, or reconsideration shall begin on the first day after the Effective Date of this Order.

6. This Order is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
October 27, 2004.**

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners