

Decision No. C04-1474

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 03I-134E

IN THE MATTER OF THE EARNINGS TEST FOR PUBLIC SERVICE COMPANY OF
COLORADO FOR CALENDAR YEAR 2002.

DOCKET NO. 04I-098E

REGARDING THE INVESTIGATION INTO THE RELIABILITY OF THE ELECTRIC
DISTRIBUTION SYSTEM OF PUBLIC SERVICE COMPANY OF COLORADO.

**ORDER VACATING REMAINING
PROCEDURAL SCHEDULE AND ASSIGNING MATTER
TO AN ADMINISTRATIVE LAW JUDGE**

Mailed Date: December 10, 2004
Adopted Date: December 10, 2004

I. BY THE COMMISSION

A. Statement

1. On December 8, 2004, Public Service Company of Colorado (Public Service or Company) filed a motion to approve stipulation and settlement agreement (Settlement Agreement) regarding matters in the above captioned dockets. Within the Motion, the Company requests that in the event the Commission conducts a hearing on the Settlement Agreement that it commence at 1:30 p.m. on December 16, 2004. The hearings in this docket are currently set for December 15 and 16, 2004 before the Commissioners .

2. The Settlement Agreement purports to resolve all disputed issues in the above captioned dockets. The Settlement Agreement also contains a provision whereby Public Service would make a \$2 million payment to Energy Outreach Colorado (EOC) in 2004 from share

holder funds. Although Public Service does not specifically request an expedited ruling on the proposed Settlement Agreement, we find it would be necessary in order to achieve this provision in the proposed Settlement Agreement.¹

3. We find that we will not have sufficient opportunity in advance of the proposed hearing dates to fully prepare, in light of the incorporation of Docket No. 04I-098E into the Settlement Agreement. As a result, we will vacate the hearings scheduled for December 15 and 16, 2004 and vacate the filing of Statements of Position which were due on January 7, 2005. We further assign this matter to an administrative law judge (ALJ) to hear the testimony in support of the proposed Settlement Agreement and to prepare a draft Initial Commission Decision. We ask that the ALJ schedule the hearing on the proposed Settlement Agreement as soon as practicable so that a Commission Decision can be issued by December 31, 2004.

4. To assist the parties to the Settlement Agreement, we provide the following questions for the parties to answer at the hearing:

a. First, please explain how the Settlement Agreement addresses each of the six points of inquiry by the Staff of the Colorado Public Utilities Commission and the Office of Consumer Counsel listed on page four and continuing on page five of the Settlement Agreement.

b. How does the Settlement Agreement address the transformer problem(s) Public Service has been facing in connection with service reliability?

¹ The Commission expresses its displeasure with the Company's current pattern of forcing expedited treatment on matters which it controls, *see* Docket No. 02A-267G. The Commission may not be accommodating in the future of such continued requests.

c. Please explain the basis for providing \$2 million to EOC, which could feasibly provide help in paying non-Public Service gas customers' higher winter heating bills, when both of these dockets affect the electric customers on the Public Service system.

d. Why is it necessary for Public Service to make the payment to EOC in 2004?

e. What would be the consequences of making the payment to EOC in mid to late January 2005?

f. What would be the consequences of making the payment to EOC in mid to late February 2005?

g. Can the payment to EOC be delayed, such that the Settlement Agreement doesn't have to be expedited, without causing a party to withdraw from the Settlement Agreement?

II. ORDER

A. The Commission Orders That:

1. The hearings on December 15 and 16, 2004 before the Commissioners are vacated.

2. The filing deadline for Statements of Position on January 7, 2005 is vacated.

3. Docket No. 03I-134E and Docket No. 04I-098E are assigned to an Administrative Law Judge for the purpose of conducting a hearing on the Settlement Agreement and for the issuance of an Initial Commission Decision. The Administrative Law Judge should conduct the hearing as soon as practically possible.

4. Parties to the Settlement Agreement should come prepared to answer the questions listed in this Order.

5. The Administrative Law Judge shall provide to the Commission a draft Initial Commission Decision as soon as possible, unless the evidence obtained at the hearing indicates a decision is not required before December 31, 2004.

6. This Order is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' DELIBERATIONS MEETING
December 10, 2004.**

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners