

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 03A-549E

IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO FOR AN ORDER APPROVING EXPENSES INCURRED FOR THE PERIOD JANUARY 2002 THROUGH DECEMBER 2002 THAT ARE RECOVERED THROUGH THE INCENTIVE COST ADJUSTMENT.

**INTERIM ORDER OF
ADMINISTRATIVE LAW JUDGE
MANA L. JENNINGS-FADER
VACATING PROCEDURAL SCHEDULE;
SCHEDULING PREHEARING CONFERENCE;
EXTENDING TIME FOR COMMISSION
DECISION; LISTING ISSUES FOR
DISCUSSION; AND GRANTING PETITION
FOR LEAVE TO INTERVENE,
SUBJECT TO CONDITIONS**

Mailed Date: February 20, 2004

I. STATEMENT

1. On December 22, 2003, Public Service Company of Colorado (PSCo or Applicant), filed its Application for approval of expenses incurred in calendar year 2002 and reflected in PSCo's Incentive Cost Adjustment. With the Application PSCo filed the testimony and exhibits of Messrs. David A. Wolaver, Charles E. Anderson, and Kurtis J. Haeger. Portions of the exhibits of Mr. Haeger were filed with the Commission under seal. The Application commenced this proceeding.

2. On December 29, 2003, the Commission gave public notice of the Application. *See Notice of Application Filed (Notice)*, dated December 29, 2003. In that Notice, the Commission established an intervention period and a procedural schedule.

3. On January 22, 2004, Holy Cross Energy (HCE) filed a Petition for Leave to Intervene (Petition). On the same date, HCE and PSCo filed a Stipulation and Order (Stipulation) in which PSCo agreed to the intervention on certain conditions and HCE agreed to the stated conditions. The limitations and conditions are that HCE will not participate actively in this proceeding, that HCE will remain on the service lists of the Commission and of the parties, and that HCE will be entitled to receive all documents filed with the Commission and served on the parties. *See* Stipulation at ¶¶ 1 and 2. No party opposes the Petition or the Stipulation. The Petition, as limited and conditioned by the Stipulation, states good cause. Granting the Petition will not prejudice any party. The Petition, as conditioned by the Stipulation, will be granted.

4. The Commission deemed the application complete as of February 12, 2004, and referred this matter to an administrative law judge (ALJ). *See* Minute Order dated February 4, 2004.

5. On February 19, 2004, Staff of the Commission (Staff) intervened of right and requested a hearing in this matter.

6. By this Order, the undersigned ALJ will vacate the procedural schedule set out in the Notice.

7. It is Necessary to schedule a hearing and to establish a procedural schedule in this matter. To do so, a prehearing conference will be held on March 2, 2004. The provisions of Rules 4 *Code of Colorado Regulations* (CCR) 723-1-79(b)(3) and 4 CCR 723-1-79(b)(4) govern this prehearing conference.

8. The parties should be prepared to discuss these matters at the prehearing conference: (a) date by which Staff will file its answer testimony and exhibits; (b) date by which

PSCo will file its rebuttal testimony and exhibits; (c) date(s) by which each party will file its corrected testimony and exhibits; (d) date by which each party will file its prehearing motions;¹ (e) whether a final prehearing conference is necessary and, if it is, the date for that prehearing conference; (f) date by which the parties will file any stipulation reached;² (g) hearing dates; and (h) date for post-hearing statements of position and whether the statements should be written or oral and, if written, whether responses should be permitted. Further, the parties should review, and be prepared to discuss to the extent relevant, the matters contained in Rule 4 CCR 723-1-79(b)(5). Parties may raise any additional issues.

9. In considering proposed dates, parties should keep in mind that the Commission has deemed the Application complete as of February 12, 2004. Absent Applicant's waiver of the statutory time frame or a finding of extraordinary circumstances, a Commission decision in this proceeding should issue within 210 days of that date (*i.e.*, September 9, 2004).³ See §§ 40-6-109.5(1) and 40-6-109.5(4), C.R.S. Any procedural schedule must take into consideration, and allow time for, the preparation of a recommended decision, preparation of exceptions to the recommended decision and response to exceptions, and preparation of a Commission decision on exceptions,⁴ all of which should occur by September 9, 2004.

¹ This date should be at least 10 days before the final prehearing conference or, if there is no final prehearing conference, 14 days before the hearing.

² This date should be at least seven calendar days before the first day of hearing.

³ By this Order, the ALJ extends for an additional 90 days the time for Commission decision in this proceeding. See § 40-6-109.5(1), C.R.S. The issues presented are complex. The ALJ finds that the Application requires investigation and consideration that cannot be completed reasonably within 120 days of February 12, 2004.

⁴ As a general rule and not including the time necessary for preparation of a transcript if one is ordered, these activities consume two and one-half to three months from the filing of the statements of position or responses to statements of position, whichever occurs later.

10. The undersigned expects the parties to come to the prehearing conference with proposed dates for all deadlines. In addition, the parties must consult prior to the prehearing conference with respect to the listed matters. Finally, the parties are encouraged to present, if possible, a procedural schedule and hearing date(s) which are satisfactory to both parties.

II. ORDER

A. It Is Ordered That:

1. The Petition for Leave to Intervene filed by Holy Cross Energy, as limited and conditioned by the Stipulation and Order filed on January 22, 2004, is granted.

2. Holy Cross Energy is a party to this proceeding subject to the limitations and conditions set out above.

3. The procedural schedule established in the Notice of Application Filed, dated December 29, 2003, is vacated.

4. A prehearing conference in this docket is scheduled as follows:

DATE: March 2, 2004
TIME: 9:00 a.m.
PLACE: Commission hearing Room
1580 Logan Street, OL2
Denver, Colorado

5. The parties shall follow the procedures, and be prepared to discuss the matters, as set forth above.

6. This Order is effective immediately.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Administrative Law Judge