

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO**

DOCKET NO. 03A-549E

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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.

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**INTERIM ORDER OF  
ADMINISTRATIVE LAW JUDGE  
MANA L. JENNINGS-FADER  
SCHEDULING HEARING AND  
ESTABLISHING PROCEDURAL SCHEDULE**

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Mailed Date: March 4, 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. The Application commenced this proceeding.

2. On December 29, 2003, the Commission gave public notice of the Application. *See Notice of Application Filed, dated December 29, 2003.*

3. On January 22, 2004, Holy Cross Energy (HCE) filed a Petition for Leave to Intervene. On the same date, HCE and PSCo filed a Stipulation and Order in which PSCo agreed to the intervention on certain conditions and HCE agreed to the stated conditions. By Decision No. R04-0183-I, the undersigned Administrative Law Judge (ALJ) granted the petition of HCE, subject to the conditions set out in the Stipulation and Order.

4. The Commission deemed the application complete as of February 12, 2004. *See* Minute Order dated February 4, 2004. By Decision No. R04-0183-I, the ALJ extended the time for Commission decision to and including September 9, 2004.

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

6. In Decision No. R03-0193-I, as modified by Decision No. R03-0191-I, the ALJ scheduled a prehearing conference in this matter for March 4, 2004. At the scheduled prehearing conference, Staff presented a procedural schedule to which the parties had agreed. The proposed schedule allows sufficient time for the Commission to meet the time frame of § 40-6-109.5(1), C.R.S. After discussion and clarification, the ALJ accepted the proposed procedural schedule. This Order memorializes the decisions made at the prehearing conference.

7. The following procedural schedule will be adopted: (a) on or before **April 16, 2004**, Staff shall file its answer testimony and exhibits; (b) on or before **May 21, 2004**, PSCo shall file its rebuttal testimony and exhibits; (c) on or before **noon on June 8, 2004**, each party shall file its prehearing motions;<sup>1</sup> (d) on or before close of business on **June 8, 2004**, each party shall file its corrected testimony and exhibits; (e) on or before close of business on **June 8, 2004**, the parties shall file any stipulation reached; (f) on or before **noon on June 11, 2004**, each party shall file its response to the prehearing motions of the other party;<sup>2</sup> (g) on or before close of business on **June 11, 2004**, the parties shall file a list of witnesses setting out the order in which

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<sup>1</sup> Parties shall hand-deliver to the office of the ALJ a copy of any prehearing motion when it is filed with the Commission. This requirement does not reduce the number of copies to be filed with the Commission.

<sup>2</sup> Parties shall hand-deliver to the office of the ALJ a copy of any response when it is filed with the Commission. This requirement does not reduce the number of copies to be filed with the Commission.

they will testify; (h) hearing in this matter shall be held **June 15 through 17, 2004**;<sup>3</sup> and (i) on or before **July 2, 2004**, the parties shall file post-hearing statements of position and, absent further order, no response shall be permitted.

8. No final prehearing conference will be scheduled at this time. Should one or both parties believe that a prehearing conference is necessary or desirable, a motion may be filed.

9. Staff has agreed, for purposes of this proceeding, that the same procedures and time frames will apply to discovery and to audit requests.<sup>4</sup> To the extent there are audit requests which were sent to PSCo before the prehearing conference and to which PSCo has not yet responded in full, the provisions of this Order will apply to those audit requests *except that* the ten-day response period runs from the date the audit request was submitted.

10. Except as modified by this Order, the procedures and time frames set out in Rule 4 *Code of Colorado Regulations* 723-1-77 govern discovery in this proceeding.

11. The last day for propounding discovery addressed to the direct testimony filed by Applicant will be April 16, 2004. Response will be due ten calendar days after service of the discovery request.

12. The last day for propounding discovery addressed to the answer testimony filed by Staff will be May 21, 2004. Response will be due ten calendar days after service of the discovery request.

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<sup>3</sup> Parties are requested to have hearing exhibits pre-marked and to exchange exhibits, to the extent possible, prior to commencement of the hearing.

<sup>4</sup> Reference in this Order to discovery means and incorporates both discovery and audit requests.

13. The last day for propounding discovery addressed to the rebuttal testimony filed by Applicant will be June 4, 2004, subject to provisions of ¶ 14, *infra*. Response will be due seven calendar days after service of the discovery request.

14. With respect to discovery addressed to Staff's answer testimony and to Applicant's rebuttal testimony, the following will apply: Discovery served after 12:00 noon on a Friday will be deemed served the following Monday.

15. Motions to compel response to discovery shall be made in writing, shall be filed with the Commission, and shall be served electronically (including attachments) on the opposing party. Response time to a motion to compel response to discovery is shortened to three business days. Hearing on a motion to compel response to discovery will be by telephone, if possible, and will occur as soon as practical after expiration of the response time.

16. Parties shall hand-deliver to the office of the ALJ a copy of any motion to compel response to discovery, and of any response to a motion to compel response to discovery, when it is filed with the Commission. This requirement does not reduce the number of copies to be filed with the Commission.

## **II. ORDER**

### **A. It Is Ordered That:**

1. The procedural schedule detailed above is adopted.

2. Hearings shall be conducted in this matter at the following time and date:

DATES: June 15 through 17, 2004

TIME: 9:00 a.m.

PLACE: Commission Hearing Room  
1580 Logan Street, OL-2  
Denver, Colorado

3. The parties shall follow the procedures and shall make the filings set out above.

4. This Order is effective immediately.

THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

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Administrative Law Judge