

Decision No. C05-1474

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 03R-520G

IN THE MATTER OF THE PROPOSED REPEAL AND RE-ENACTMENT OF ALL RULES REGULATING GAS UTILITIES, AS FOUND IN 4 CCR 723-4, 8, 10, 11, 17 AND 32.

DOCKET NO. 04R-003EG

IN THE MATTER OF THE PROPOSED REPEAL AND REENACTMENT OF RULES REGULATING COST ASSIGNMENT AND ALLOCATION FOR GAS AND ELECTRIC UTILITIES FOUND AT 4 CCR 723-47.

**ORDER GRANTING, IN PART, AND DENYING, IN PART,
REHEARING, REARGUMENT OR RECONSIDERATION**

Mailed Date: December 16, 2005

Adopted Date: December 2, 2005

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for consideration of applications for Rehearing, Reargument or Reconsideration (RRR) to Decision No. C05-1299 filed jointly by Kinder Morgan, Inc. and Rocky Mountain Natural Gas Company (KM), and by Public Service Company of Colorado (Public Service).

B. RRR Applications

1. Rule 4002 – Applications

2. KM takes issue with a modification to Rule 4002(b)(IX). KM claims that this modification was made in Decision No. C05-1299. KM is incorrect. That modification was in fact made in response to KM's exceptions filed to the Administrative Law Judge's

Recommended Decision, R05-0523, mailed on May 6, 2005. In that exception pleading KM made the following statement:

Recommended Rule 4002(b)(IX) should be revised to allow for the filing of audited financial statements of a parent corporation and consolidated subsidiaries of which the utility is a part when a utility would not have itself stand alone audited financials

3. In the Order addressing the exceptions, Decision C05-1084 (mailed September 9, 2005) we granted KM's exceptions, but included additional language regarding information on Colorado operations. Paragraph 30 of that decision reads:

KM suggests that 4002(b)(IX) be modified to allow for audited financial statements of parent company and consolidated subsidiaries. We grant this exception, so long as the financial statements show the Colorado specific information.

4. We made the following modification to rule 4002(b)(XI):

(IX) For applications listed in ~~subsection~~paragraphs (a)(I), (II), (III), (V), and (VI), and (VII) of this rule, a copy of the applying utility's or parent company's and consolidated subsidiaries' most recent audited balance sheet, income statement, statement of retained earnings, and statement of cash flows so long as they provide Colorado specific financial information.

5. The RRR period to Decision No. C05-1084 closed on September 29, 2005, and KM made no RRR filing to contest this modification or any other gas rule.

6. We then issued Decision No. C05-1250, mailed on October 14, 2005, to address the applications for RRR to Decision No. C05-1084. The RRR period for Decision C05-1250 closed on November 3, 2005. Again, KM made no RRR filing to that decision.

7. We then issued Decision No. C05-1299, mailed on November 1, 2005, to address the applications for RRR to Decision No. C05-1250. The RRR period for Decision No. C05-1299 closed on November 21, 2005. KM filed RRR to address the additional language to Rule 4002(b)(IX) which the Commission made in Decision No. C05-1084.

8. KM contends that, due to its relatively small customer base in Colorado (approximately 77,000 customers), the cost of submitting audited Colorado financial results would be significant and that these costs would be ultimately passed on to the ratepayer. As a result of these concerns it proposes the following modification to Rule 4002(b)(IX):

(IX) For applications listed in subparagraphs (a)(I), (II), (III), (V), and (VI) of this rule, a copy of the applying utility's or parent company's and consolidated subsidiaries' most recent audited balance sheet, income statement, statement of retained earnings, and statement of cash flows so long as they also provide either audited or unaudited Colorado specific financial information.

9. We deny this reconsideration as untimely. Under the provisions of § 40-6-114, C.R.S. KM should have filed for reconsideration of this rule by September 29, 2005. Since it failed to do so, and failed to file for an extension of time within that RRR period, it cannot now seek reconsideration of that issue. We note that KM can always request a waiver to this rule in the CPCN applications, asset transfer applications and security applications it files.

2. Rules 3405 - Service, Rate, and Usage Information

10. Public Service requests that the change to Rule 3405(a), based on the Office of Consumer's Counsel's (OCC) first round RRR filing, be reversed due to a potential inconsistency with the Commission's Practice & Procedure Rule 1206. A review of Rule 1206 indicates that it indeed addresses the issue of notice for rate changes pursuant to § 40-3-104(1), C.R.S. Thus, we agree with Public Service and grant, in part, its request for RRR. We adopt the following language in order to accomplish both the earlier intent of the OCC, and the current position of Public Service with respect to this matter. Rule 3405(a) now reads:

In addition to the requirement found in rule 1206, a utility shall inform its customers of any change proposed or made in any term or condition of its service if that change or proposed change will affect the quality of the service provided.

II. ORDER

A. The Commission Orders That:

1. The application for Rehearing, Reargument or reconsideration jointly filed by Kinder Morgan, Inc. and Rocky Mountain Natural Gas Company is denied.

2. The application for Rehearing, Reargument or reconsideration filed by Public Service Company of Colorado is granted, in part, consistent with the discussion above.

3. With the modifications to rule 4405. attached to this Order as Attachment A, the Commission adopts the Rules Regulating Gas Utilities, Regulating Cost Assignment and Allocation for Gas and Electric Utilities which were attached to Commission Decision No. C05-1299, Order Granting, In Part, and Denying, In Part, Rehearing, Reargument and Reconsideration.

4. The rules shall be effective on April 1, 2006.

5. The opinion of the Attorney General of the State of Colorado shall be obtained regarding the constitutionality and legality of the rules.

6. A copy of the rules adopted by the Order shall be filed with the Office of the Secretary of State for publication in *The Colorado Register*. The rules shall be submitted to the appropriate committee of the Colorado General Assembly if the General Assembly is in session at the time this Order becomes effective, or to the committee on legal services, if the General Assembly is not in session, for an opinion as to whether the adopted rules conform with § 24-4-103, C.R.S.

7. 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.

8. This Order is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' DELIBERATIONS MEETING
December 2, 2005.**

(SEAL)



ATTEST: A TRUE COPY



Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

GREGORY E. SOPKIN

POLLY PAGE

CARL MILLER

Commissioners

- (II) A description of the steps which the utility will take if the customer does not abide by payment plan.
- (e) Except as provided in subparagraph (b)(I) of this rule, an installment payment plan shall consist, at a minimum, of equal monthly installments for a term selected by the customer but not to exceed six months. In the alternative, the customer may choose a modified budget billing, levelized payment, or similar tariffed payment arrangement in which the total due shall be added to the preceding year's total billing to the customer's premises, modified for any base rate or cost adjustment changes. The resulting amount shall be divided and billed in 11 equal monthly budget billing payments, followed by a settlement billing in the twelfth month, or shall follow other payment-setting practices consistent with the tariffed plan available.
- (f) For an installment payment plan entered into pursuant to this rule, the first monthly installment payment, and with the new charges (unless the new charges have been made part of the arrangement amount) shall be due on a date which is not earlier than the next regularly-scheduled due date of the customer who is entering into the installment payment plan. Succeeding installment payments, together with the new charges, shall be due in accordance with the due date established in the installment payment plan. Any payment not made on the due date established in the installment payment plan shall be considered in default. Any new charges that are not paid by the due date shall be considered past due, excluding those circumstances covered in subparagraph (b)(I) of this rule.
- (g) This rule shall not be construed to prevent a utility from offering any other installment payment plan terms to avoid discontinuance or terms for restoration of service, provided the terms are at least as favorable to the customer as the terms set out in this rule.

4405. Service, Rate, and Usage Information.

- (a) In addition to the requirement found in rule 1206. Aa utility shall inform its customers of any change proposed or made in any term or condition of its service if that change or proposed change will affect the quality of the service provided.
- (b) A utility shall transmit information provided pursuant to this rule through the use of a method (such as, without limitation, bill inserts or periodic direct mail) that will assure receipt by each customer.
- (c) Upon request, a utility shall provide the following information to a customer:
 - (I) A clear and concise summary of the existing rate schedule applicable to each major class of customers for which there is a separate rate.
 - (II) An identification of each class whose rates are not summarized.
 - (III) A clear and concise explanation of the existing rate schedule applicable to the customer. This shall be provided within ten days of a customer's request or, in the case of a new customer, within 60 days of the commencement of service.
 - (IV) A clear and concise statement of the customer's actual consumption or degree-day adjusted consumption of gas for each billing period during the prior year, unless such consumption data are not reasonably ascertainable by the utility.