

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14AL-0309G

IN THE MATTER OF ADVICE LETTER NO. 861 - GAS FILED BY PUBLIC SERVICE COMPANY OF COLORADO IN COMPLIANCE WITH DECISION NOS. R13-1307 AND C13-1568 IN PROCEEDING NO. 12AL-1268G TO REVISE THE GENERAL RATE SCHEDULE ADJUSTMENT TO BECOME EFFECTIVE MAY 1, 2014.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
MANA L. JENNINGS-FADER
SUSPENDING EFFECTIVE DATE OF PROPOSED
TARIFFS, GRANTING UNOPPOSED MOTION FOR
REVISED PROCEDURAL SCHEDULE, VACATING
HEARING, SCHEDULING EVIDENTIARY HEARING,
MODIFYING PROCEDURAL SCHEDULE, AND
WAIVING RESPONSE TIME TO MOTION**

Mailed Date: July 10, 2014

I. STATEMENT

1. On April 1, 2014, Public Service Company of Colorado (Public Service, PSCo, or Company) filed Advice Letter No. 861 - Gas (Advice Letter) to revise the General Rate Schedule Adjustment (GRSA). Accompanying the Advice Letter are proposed tariff sheets that, if in effect, would revise the GRSA upward in order to recover the Company's rate case expenses for Proceeding No. 12AL-1268G. The proposed tariff sheets have a May 1, 2014 effective date.

2. The Colorado Office of Consumer Counsel (OCC) and the Trial Staff of the Commission (Staff) intervened. OCC and Staff, collectively, are the Intervenors. Public Service and the Intervenors, collectively, are the Parties.

3. On April 30, 2014, by Decision No. C14-0443, the Commission referred this Proceeding to an Administrative Law Judge (ALJ).

4. The procedural history of this Proceeding is set out in previous Interim Decisions. The ALJ restates the procedural history here as necessary to put this Interim Decision in context.

A. Amended Advice Letter.

5. By Decision No. C14-0443, the Commission set this matter for hearing, thus suspending the effective date of the tariffs that accompanied the Advice Letter. The initial suspension period expires on August 29, 2014. On June 3, 2014, by Decision No. R14-0589-I, the ALJ further suspended the effective date of the tariffs that accompanied the Advice Letter. The extended suspension period expires on November 27, 2014.

6. On July 9, 2014, Public Service filed its Advice Letter No. 861 - Gas Amended (Amended Advice Letter). Appended to the Amended Advice Letter are proposed tariff sheets that contain a proposed effective date of June 1, 2014 and that are otherwise identical to the proposed tariff sheets appended to the Advice Letter.

7. The Amended Advice Letter, the appended proposed tariff sheets, and the new effective date supersede in their entirety the Advice Letter,¹ the tariff sheets appended to the Advice Letter, and the original effective date.

8. Pursuant to § 40-6-111(1), C.R.S., the Commission may suspend the proposed effective date of the proposed tariff sheets appended to the Amended Advice Letter for 120 days from the proposed June 1, 2014 effective date. If the effective date is suspended and if the Commission does not establish new rates before the expiration of the initial suspension period of 120 days (*i.e.*, September 28, 2014²), the tariff sheets filed with the Amended Advice Letter may become effective.

¹ The Amended Advice Letter at 2 incorporates by reference “the statements made in” the Advice Letter.

² This is a Sunday. Nonetheless, the tariffs may become effective on that date.

9. Pursuant to § 40-6-111(1), C.R.S., and in its discretion, the Commission, by separate decision, may suspend for an additional 90 days the effective date of the tariff sheets filed with the Amended Advice Letter. Thus, the Commission has the authority to suspend the effective date of the tariff sheets filed with the Amended Advice Letter for a maximum of 210 days (*i.e.*, until December 27, 2014³). If the Commission suspends the effective date of the tariff sheets that accompany the Amended Advice Letter for an additional 90 days and if no new rates are established by the Commission before December 27, 2014, the tariff sheets that accompany the Amended Advice Letter may become effective.

10. By this Interim Decision and pursuant to § 40-6-111(1), C.R.S., the ALJ will suspend for 120 days (*i.e.*, through and including September 28, 2014), the June 1, 2014 proposed effective date of the proposed tariff sheets appended to the Amended Advice Letter.

B. Unopposed Motion for Revised Procedural Schedule.

11. On June 11, 2014, the ALJ held a prehearing conference. The Parties were present, were represented, and participated. During the prehearing conference, the ALJ made numerous bench rulings. At the conclusion of the prehearing conference, the ALJ informed the Parties that she would issue an Interim Decision memorializing her bench rulings; that the Interim Decision would not issue for some time; and that the Parties were to proceed in accordance with the bench rulings.

12. On June 20, 2014, by Decision No. R14-0668-I, the ALJ scheduled an August 14 and 15, 2014 evidentiary hearing and established the procedural schedule in this Proceeding. In that Interim Decision, the ALJ discussed the scope of this Proceeding and, as pertinent here,

³ This is a Saturday. Nonetheless, the tariffs may become effective on that date.

ordered Public Service to provide in its direct testimony the Company's rate case expenses that were known and actual numbers at the time of the hearing in Proceeding No. 12AL-1268G.⁴

13. On June 18, 2014, Public Service filed the Direct Testimony of Marci A. McKoane (June 18 PSCo Testimony). Public Service made this filing before the issuance of Decision No. R14-0668-I.

14. On July 1, 2014, OCC filed an Unopposed Motion for a Revised Procedural Schedule (OCC Motion). In that filing, OCC requests that the ALJ modify the procedural schedule and reschedule the evidentiary hearing.

15. As good cause for granting the requested relief, OCC states:

- a. PSCo's direct testimony and exhibits were to be filed on June 18, 2014.
- b. The June 18 PSCo Testimony

relied on [the Company's] rate case expenses as they were computed in the HTY [Historical Test Year] cost of service study, and as were known as of October 22, 2013.

On June 27, 2014, Public Service witness Marci A. McKoane filed Supplemental Direct Testimony with the stated purpose, "to comply with the directive as set forth in ... Decision No. R14-0668-I ... (*see* Paragraph 22 on Page 7)." This testimony further explained that Public Service's original Direct Testimony was based on a different understanding of the ALJ's decision on the scope of the Proceeding than what was ultimately stated in the Decision No. R14-0668-I.

OCC Motion at ¶¶ 6-7.

- c. Answer testimony and exhibits are to be filed not later than July 11, 2014.

This is 23 days after the June 18, 2014 date for PSCo's direct testimony and exhibits.

⁴ This memorialized a bench ruling made during the prehearing conference.

d. The Company's testimony that complies with the ALJ's direction was not filed until June 27, 2014. As a result, Intervenors have 14 days to conduct discovery and to prepare their answer testimony for filing on July 11, 2014. This reduced by nine days the time between the filing of the Company's direct testimony and the filing of the Intervenors' answer testimony. This situation has created a hardship on the Intervenors.

16. To address the hardship that it has identified, OCC requests that the ALJ modify the procedural schedule and reschedule the evidentiary hearing. The proposed modified procedural schedule contains the same filings as the established procedural schedule but changes the filing dates.

17. The ALJ will waive response time as the OCC Motion is unopposed and no party will be prejudiced by the waiver.

18. It is critical that the procedural schedule allow sufficient time for the issuance of a Commission decision before the expiration of the suspension period. It is the Commission's decision -- not a recommended decision -- that is the § 40-6-111(1), C.R.S., decision. If no *Commission* decision permanently suspending the tariffs' effective date is issued by the end of the suspension period, the tariffs may go into effect by operation of law.

19. The ALJ will grant the unopposed OCC Motion as the proposed procedural schedule and the proposed evidentiary hearing dates allow sufficient time for preparation of a recommended decision, the filing of exceptions to the recommended decision, the filing of responses to exceptions, and the issuance of a Commission decision on exceptions. In addition, no party will be prejudiced if the unopposed motion is granted.

20. The ALJ will vacate the August 14 and 15, 2014 evidentiary hearing; will schedule new evidentiary hearing dates; and will modify the procedural schedule.

21. The ALJ finds to be acceptable, and will adopt, the following modified procedural schedule and new hearing dates: (a) not later than **July 21, 2014**, each intervenor will file its answer testimony and exhibits; (b) not later than **August 4, 2014**, Public Service will file its rebuttal testimony and exhibits; (c) not later than **August 4, 2014**, each intervenor will file its cross-answer testimony and exhibits;⁵ (d) not later than **August 13, 2014**, each party will file its corrected testimony and exhibits; (e) not later than **August 18, 2014**, each party will file its prehearing motions; (f) not later than **August 18, 2014**, the Parties will file any stipulation or settlement reached; (g) the evidentiary hearing will be held on **August 25 and 26, 2014**; (h) not later than **September 16, 2014**, each party will file its post-hearing statement of position; and (i) not later than **September 30, 2014**, each party will file its response to the post-hearing statements of position filed by the other parties.

22. Except as modified by this Interim Decision, Decision No. R14-0668-I will govern this Proceeding and remains in effect.

II. ORDER

A. It Is Ordered That:

1. Advice Letter No. 861 - Gas Amended (filed on July 9, 2014), the proposed tariff sheets appended to it, and the effective date of those proposed tariff sheets supersede in their entirety Advice Letter No. 861 - Gas (filed on April 1, 2014), the proposed tariff sheets appended to it, and the effective date of those proposed tariff sheets.

2. The June 1, 2014 effective date of the proposed tariff sheets filed by Public Service Company of Colorado with Advice Letter No. 861 - Gas Amended is suspended for 120 days (*i.e.*, until September 28, 2014) or until further order of the Commission.

⁵ Cross-answer testimony responds only to the answer testimony of another intervenor.

3. The August 14 and 15, 2014 evidentiary hearing is vacated.
4. The Unopposed Motion for a Revised Procedural Schedule is granted.
5. The evidentiary hearing in this Proceeding is scheduled for the following dates, at

the following times, and in the following location:

DATES: August 25 and 26, 2014
TIME: 9:00 a.m. each day
PLACE: Commission Hearing Room
1560 Broadway, Suite 250
Denver, Colorado

6. The following modified procedural schedule is adopted: (a) not later than July 21, 2014, each intervenor shall file its answer testimony and exhibits; (b) not later than August 4, 2014, Public Service Company of Colorado shall file its rebuttal testimony and exhibits; (c) not later than August 4, 2014, each intervenor shall file its cross-answer testimony and exhibits; (d) not later than August 13, 2014, each party shall file its corrected testimony and exhibits; (e) not later than August 18, 2014, each party shall file its prehearing motions; (f) not later than August 18, 2014, the Parties shall file any stipulation or settlement reached; (g) not later than September 16, 2014, each party shall file its post-hearing statement of position; and (h) not later than September 30, 2014, each party shall file its response to the post-hearing statements of position filed by the other parties.

7. Except as modified by this Interim Decision, Decision No. R14-0668-I remains in effect and governs this Proceeding.

8. Response time to the Unopposed Motion for a Revised Procedural Schedule is waived.

9. The Parties are held to advisements contained in the Interim Decisions issued in this Proceeding.

10. This Interim Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

MANA L. JENNINGS-FADER

Administrative Law Judge

ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Doug Dean".

Doug Dean,
Director