

125 FERC ¶ 61,370
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Sudeen G. Kelly, Marc Spitzer,
Philip D. Moeller, and Jon Wellinghoff.

Public Service Company of Colorado

Docket No. ER09-133-000

ORDER ACCEPTING REVISED TARIFF SHEETS AND GRANTING WAIVER

(Issued December 29, 2008)

1. On October 24, 2008, Public Service Company of Colorado (PSCo) filed revised tariff sheets, reflecting changes to the base rates applicable to Intermountain Rural Electric Association (IREA). In this order, we accept the revised tariff sheets, effective January 1, 2009, and grant waiver of the Wholesale Fuel Cost and Economic Purchased Power Adjustment Clause (Fuel Adjustment Clause) regulations.

I. Details of Filing

2. PSCo states that the rates currently in effect for IREA were established pursuant to a Commission-approved settlement in PSCo's last general section 205 rate case in Docket No. ER93-971-000.¹ PSCo notes that pursuant to the terms of the Restated and Amended Power Purchase Agreement included in that settlement, PSCo agreed to a moratorium provision, which provided that PSCo would make no filing with the Commission that would increase base rates to IREA to become effective prior to January 1, 2009. On February 1, 2008, PSCo filed a general rate increase applicable to other wholesale requirements customers in Docket No. ER08-527-000, noting that those customers' prior settlements did not include a moratorium provision.² PSCo reached settlements with the customers in that proceeding, and the Commission approved those settlements and

¹ *Public Service Co. of Colorado*, 106 FERC ¶ 61,189, *order clarifying prior order and terminating proceeding*, 107 FERC ¶ 61,228 (2004).

² In support of the proposed increase in Docket No. ER08-527-000, PSCo noted that its base rate costs had increased due to added purchased capacity costs, and the costs recoverable in its Fuel Adjustment Clause had increased due in large part to increased fuel costs. PSCo also included in those proposed rates Construction Work in Progress (CWIP) for the expansion of two company-owned generation facilities—the Fort St. Vrain gas facility and the Comanche Unit 3 coal facility—and for environmental controls on Comanche Units 1 and 2.

revised tariff sheets effective May 1, 2008.³ PSCo states that the revised rates for IREA were determined in a manner consistent with the rates approved by the Commission in the Docket No. ER08-527-000 proceedings.

3. In addition to revised rates, PSCo and IREA have agreed to a number of provisions similar to those agreed to by PSCo and its other wholesale requirements customers in Docket No. ER08-527-000.⁴ Specifically, PSCo agrees to a moratorium on a wholesale rate increase until the earlier of the commercial operation date of its Comanche 3 generating facility or January 1, 2010. Additionally, PSCo agrees that in the event it seeks to recover capital costs of certain additional Comanche and Fort St. Vrain facilities in a future wholesale rate filing (Additional Plant Costs), it will separately quantify and identify the rate impact of the recovery of those Additional Plant Costs. PSCo and IREA also agree that the Additional Plant Cost-related portion of each rate component will become effective, subject to refund, on the first day of the month following the commercial operations date of Comanche 3, notwithstanding action by the Commission to impose a longer suspension with respect to the components of the rate filing not related to the Additional Plant Costs.⁵

4. PSCo and IREA also agreed to terms regarding amendments to the Fuel Adjustment Clause. In section 1 of the Fuel Adjustment Clause, PSCo and IREA have agreed to a revised base cost of fuel and revised loss factors consistent with the settlements in Docket No. ER08-527-000. In section 2 of the Fuel Adjustment Clause, PSCo and IREA have agreed to provisions that allow for the recovery of economic renewable energy. The parties have also agreed that PSCo move certain energy costs⁶ from the non-fuel base cost to the Fuel Adjustment Clause base cost. In Schedule 2, the parties have agreed to the same Fuel Adjustment Clause Waiver column on that schedule as in the Docket No. ER08-527-000 settlements. With regard to Schedule 3 of the Fuel Adjustment Clause, the parties have agreed that the Fuel Adjustment Clause would be amended and replaced with a version that identifies no contracts. PSCo requests any

³ See *Public Service Company of Colorado*, 123 FERC ¶ 61,268 (2008).

⁴ Although PSCo and IREA have designated that agreement as a “Settlement Agreement,” we act only on the revised tariff sheets and will treat the “Settlement Agreement” as a separate agreement between the parties.

⁵ In the event that the facility enters operation on the first day of the month, the rate components would become effective that day.

⁶ The costs to be moved are: tolling start up costs and tolling fees, PacifiCorp all-in energy charges, Foote Creek Wind all-in energy charges, Waste Management Land Fill all-in energy charges, purchased hydro (all-in energy charges), Basin, Tri-State, and Platte River Power Authority Non-Fuel Base energy costs and start costs.

waivers of the Commission's Fuel Adjustment Clause regulations to the extent necessary to give full effect to the treatment of costs set forth in the agreement between itself and IREA.

5. PSCo and IREA have also agreed to several other miscellaneous terms. For example, they agree that the rates include no CWIP for pollution control or other construction projects, and the rates are premised on the depreciation rates filed in Docket No. ER08-527-000.

II. Notice of Filing and Responsive Pleadings

6. Notice of the filing was published in the *Federal Register*, 73 Fed. Reg. 65,843 (2008), with interventions and protests due on or before November 14, 2008. IREA filed a motion to intervene out-of-time. IREA's motion to intervene included comments in support of PSCo's filing.

III. Commission Determination

7. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedures, 18 C.F.R § 385.214(d) (2007), the Commission will grant IREA's late-filed motion to intervene given its interest in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

8. For good cause shown, we grant PSCo's waiver of the Fuel Adjustment Clause regulations.⁷ We also accept the filed revised tariff sheets, effective January 1, 2009, as they appear to be just and reasonable and have not been shown to be unjust, unreasonable, unduly discriminatory or preferential or otherwise unlawful.

The Commission orders:

(A) The waiver requested by PSCo is hereby granted, as discussed in the body of this order.

(B) The proposed tariff sheets are hereby accepted, effective January 1, 2009.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

⁷ 18 C.F.R. § 35.14 (2008).