

Decision No. C24-0399-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 24D-0220G

IN IN THE MATTER OF VERIFIED PETITION FOR DECLARATORY ORDER DETERMINING WHETHER A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY IS REQUIRED FOR COMPLETION OF THE CLARKSON SYSTEM SAFETY AND INTEGRITY PROJECT, FOR SHORTENED RESPONSE TIME, AND FOR AN EXPEDITED DECISION.

**INTERIM COMMISSION DECISION
ACCEPTING PETITION, ISSUING NOTICE,
ESTABLISHING 30-DAY INTERVENTION PERIOD,
AND REFERRING THE MATTER TO AN
ADMINISTRATIVE LAW JUDGE**

Mailed Date: June 10, 2024

Adopted Date: May 29, 2024

TO THE PARTIES IN THIS MATTER AND ALL INTERESTED PERSONS, FIRMS, OR CORPORATIONS:

I. BY THE COMMISSION

A. Statement

1. By this Decision, the Commission accepts and issues notice of the Verified Petition for Declaratory Order (Petition) filed on May 21, 2024, by Public Service Company of Colorado. The Petition seeks a declaratory order as to whether Commission rules require Public Service to obtain a Certificate of Public Convenience and Necessity (CPCN) for its Clarkson Street Main Renewal Project. As discussed below, we accept the Petition, establish a 30-day notice and intervention period, and refer the matter to an Administrative Law Judge (ALJ). Interventions shall be due by 5:00 p.m. on July 10, 2024.

A. Background

2. This Petition relates to the Clarkson Project, a multi-year effort to replace fifteen blocks of a steel gas main that runs along Clarkson Street in Denver. The existing pipeline was installed in the 1940s, and according to Public Service, the pipe age, material type, and its use of compression couplings makes the line prone to leaks or failure. The project is comprised of at least four phases, and according to Public Service, phases one and two have been completed. Public Service filed this petition to determine whether a CPCN is required for phases three and four.

3. In its Petition, Public Service asserts that the project as a whole was authorized under the 2022 PSIA Deferral and that phase one was recovered through the deferral mechanism authorized therein. Cost recovery for phase two is currently pending in Public Service's ongoing gas rate case, Proceeding No. 24AL-0049G.

4. At the heart of this Proceeding is Commission Rule 4102, which was promulgated in May 2023, after Public Service asserts phases one and two had been initiated or completed. In relevant part, the Rule requires Public Service to apply for a CPCN for certain projects where the "total utility capital investment value is greater than \$12 million in 2020 dollars"

5. Public Service states that it filed the Petition out of an abundance of caution, believing that for phased projects like the Clarkson Project, each phase is its own project for the purposes of Rule 4102, and, therefore, a CPCN is only required for those phases that exceed the \$12 million threshold set out in the Rule. In other words, Public Service believes that Rule 4102 should be read as setting thresholds for each phase of the Clarkson Project, not the project as a whole.

B. Findings and Conclusions

6. The Commission may entertain a petition for declaratory order to terminate a controversy or remove an uncertainty regarding any tariff, statute, or Commission rule, regulation, or order. Rule 4 CCR 723-1-1304(i)(II). If a petition meets those requirements, the Commission then exercises its discretion to accept or dismiss the petition.

7. We find that there is uncertainty regarding the application of Rule 4102 to multi-phase projects and therefore accept the Petition.

8. We refer this proceeding to an ALJ for disposition.

9. The Petition is available for public inspection by accessing the Commission's E-Filings System at:

https://www.dora.state.co.us/pls/efi/EFI.Show_Docket?p_session_id=&p_docket_id=24D-0220G

10. This Decision is the notice that Public Service's Petition for Declaratory Order regarding Public Service's need to apply for a CPCN for phases three and four of the Clarkson Project has been filed with the Commission.

11. This Decision establishes a 30-day notice and intervention period for this Proceeding. The Commission's notice period for the Petition shall extend through and include **5:00 p.m. on July 10, 2024**. The intervention period will run concurrent with the notice period. Interventions shall be due by **5:00 p.m. on July 10 2024**.

II. ORDER**A. It Is Ordered That:**

1. The Commission accepts the Verified Petition for Declaratory Order filed on May 21, 2024, by Public Service Company of Colorado (Public Service).

2. Service of this Decision will provide notice of the Petition to all interested persons, firms, and corporations.

3. The notice period for the Petition shall extend through and include **5:00 p.m. on July 10, 2024.**

4. Any person desiring to intervene or participate as a party in this Proceeding shall file a petition for leave to intervene or, pursuant to the Commission's Rules of Practice and Procedure, other appropriate pleadings to become a party by **5:00 p.m. on July 10, 2024.**

5. Alternatively, persons who do not wish to intervene or become a party, but desire to file comments, may send written comments on or before 5:00 p.m. on July 10, 2024, addressed to the Public Utilities Commission, 1560 Broadway, Suite 250, Denver, Colorado 80202, or through the Commission's E- Filings System at:

<https://www.dora.state.co.us/pls/efi/EFI.homepage>

6. This Proceeding is referred to an Administrative Law Judge.

7. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
May 29, 2024.**

(S E A L)



ATTEST: A TRUE COPY

Rebecca E. White,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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MEGAN M. GILMAN

TOM PLANT

Commissioners