

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 15A-0589E

IN THE MATTER OF THE APPLICATION OF THE CITY OF BOULDER, COLORADO FOR APPROVAL OF THE PROPOSED TRANSFER OF ASSETS FROM PUBLIC SERVICE COMPANY OF COLORADO TO THE CITY AND ASSOCIATED AUTHORIZATIONS AND RELIEF.

INTERIM DECISION: (1) ESTABLISHING DEADLINE FOR FILING AGREEMENTS AND CORRECTED ASSET LIST AND SETTING TEN-DAY REVIEW PERIOD; AND (2) ACCEPTING PETITION FOR DECLARATORY ORDERS AND WAIVING RESPONSE TIME

Mailed Date: August 28, 2019
Adopted Date: August 28, 2019

TABLE OF CONTENTS

I. BY THE COMMISSION	1
A. Statement	1
B. Findings and Conclusions.....	2
1. August 30th Deadline and Ten-Day Review Period	2
2. Petition for Declaratory Orders	4
II. ORDER.....	5
A. It Is Ordered That:	5
B. ADOPTED IN COMMISSIONERS’ WEEKLY MEETING August 28, 2019.....	6

I. BY THE COMMISSION

A. Statement

1. By this Decision, the Commission establishes **5:00 p.m. on August 30, 2019**, as the deadline for Boulder to submit, as a single filing, final versions of the agreements and

corrected asset list required by Decision No. C17-0750, issued on September 14, 2017. The Commission establishes a ten-day period for parties to review and respond to this filing.

2. In addition, the Commission accepts the Petition for Declaratory Orders with Regard to the Portion of Commission Decision C17-0750 Concerning Public Service Assets Inside Substations (Petition for Declaratory Orders), filed in this proceeding by Public Service Company of Colorado (Public Service) on January 25, 2019. The Commission, on its own motion, waives any further response time to the Petition for Declaratory Orders. The Commission intends to rule on the merits of the Petition for Declaratory Orders at its next Commissioners' Weekly Meeting, on September 4, 2019.

B. Findings and Conclusions

1. August 30th Deadline and Ten-Day Review Period

3. By Decision No. C17-0750, the Commission granted, in part and with conditions, and denied, in part, the Third Supplemental Verified Application filed in this proceeding by the City of Boulder (Boulder) on May 12, 2017. The Commission ordered that to secure final approval of the designation of assets for transfer outside of the six substations at issue in this proceeding, Boulder shall:

- (1) file an agreement(s) reached between Boulder and Public Service that provides Public Service permanent non-exclusive easements and other necessary real property rights for the location of Public Service's electric facilities within Boulder's city limits that are necessary for Public Service to provide service to its customers after separation;
- (2) correct the errors and omissions from the list of assets for transfer outside of the substations and resubmit the revised list of assets for final approval; and
- (3) file an agreement (or multiple agreements) between Boulder and Public Service that address(es) the payment by Boulder to Public Service of the costs incurred by Public Service to effectuate the separation of the systems.

4. The Commission ordered that the agreements and the corrected asset list be filed no later than 90 days from the date of Decision No. C17-0750. The Commission subsequently granted several requests to extend the filing date. *See* Decision No. C17-1065-I issued December 22, 2017 (extending to March 13, 2018); Decision No. C18-0181-I issued March 14, 2018 (extending to June 11, 2018); Decision No. C18-0557-I issued July 16, 2018 (extending to August 24, 2018); and Decision No. C18-0742-I issued August 31, 2018 (extending to October 26, 2018).

5. At the August 21, 2019, status conference convened by the Commission in this proceeding, attorneys for Boulder and Public Service discussed with the Commissioners the potential for filing final, uncontested versions of the agreements and corrected asset list required by Decision No. C17-0750 no later than August 30, 2019. In addition, the Commissioners discussed with attorneys for the intervenors appearing at the status conference the period of time that they would require to review the final versions of these documents and file any responses.

6. Based on the discussions during the status conference and the filings to date in this proceeding, the Commission establishes **5:00 p.m. on August 30, 2019**, as the deadline for Boulder to submit, as a single filing, final versions of the agreements and corrected asset list required by Decision No. C17-0750.

7. If these final versions are uncontested, the filing should be made jointly by Boulder and Public Service. To expedite review and approval of the agreements and the corrected asset list, the filing should also include a joint statement supporting a Commission finding that the proposed division of assets outside substations will protect the remaining Public Service system's effectiveness, reliability, and safety.

8. Parties shall have ten days from when the final agreements and corrected asset list are submitted during which to review the filing and to file a response including any request that the Commission hold a hearing on all or parts of the filing.

2. Petition for Declaratory Orders

9. On January 25, 2019, Public Service filed a Petition for Declaratory Orders. Public Service requests that the Commission declare Decision No. C17-0750 provides that Boulder may not commence condemnation proceedings to acquire Public Service assets inside substations (real or personal) unless and until: (a) Boulder and Public Service reach mutual agreement on a transfer of assets inside existing Public Service substations; and (b) an application designating for potential transfer to Boulder of assets inside substations is filed and granted.

10. Boulder, IBM, Inc. (IBM), Staff of the Commission (Staff), and Tri-State Generation and Transmission Association, Inc. (Tri-State) have all filed responsive pleadings to the Petition for Declaratory Order. *See* IBM Notice of Support and Joinder of Relief Sought in Petition for Declaratory Order, filed January 29, 2019; Staff Notice Concerning Public Service Company's Petition for Declaratory Order, filed January 29, 2019; Tri-State Notice Regarding Public Service Company's Petition for Declaratory Orders, filed January 30, 2019; and Boulder's Combined Response in Opposition to: (1) Petition for Declaratory Orders; and (2) Notice of PSCo's Withdrawal from the Joint Motion for Modification; Objections to the List of Assets; or In the Alternative, Motion for Leave to File Out of Time Objections and Request for Oral Argument, filed June 12, 2019.

11. The Commission accepts the Petition for Declaratory Orders and will consider the matter *en banc*.

12. This Decision is the notice of the filing of Public Service's petition that requests the Commission issue an order stating Boulder may not proceed to condemnation of assets inside substations until Boulder and Public Service reach an agreement on the transfer and an application is filed and granted.

13. Because parties have already filed responsive pleadings and because we find it necessary to expeditiously resolve the outstanding issues in this proceeding, we find it unnecessary to receive further responses to the Petition for Declaratory Orders. The Commission, on its own motion, therefore waives any further response time to the Petition for Declaratory Orders.

14. We intend to rule on the merits of the Petition for Declaratory Orders at our next Commissioners' Weekly Meeting, on September 4, 2019.

II. ORDER

A. It Is Ordered That:

1. The Commission establishes **5:00 p.m. on August 30, 2019**, as the filing date for final versions of the agreements and corrected asset list required by Decision No. C17-0750, issued September 14, 2017, in this Proceeding No. 15A-0589E, consistent with the discussion above.

2. Parties shall have **ten days** from when the filing is submitted during which to review the final versions of the agreements and corrected asset list and to file a response including any request that the Commission hold a hearing on all or parts of the filing.

3. The Commission accepts and gives notice of the Petition for Declaratory Orders with Regard to the Portion of Commission Decision C17-0750 Concerning Public Service Assets

Inside Substations (Petition for Declaratory Orders), filed by Public Service Company of Colorado on January 25, 2019.

4. The Commission, on its own motion, waives any further response time to the Petition for Declaratory Orders and intends to rule on the merits at its next Commissioners' Weekly Meeting, on September 4, 2019.

5. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
August 28, 2019.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JEFFREY P. ACKERMANN

FRANCES A. KONCILJA

JOHN GAVAN

Commissioners