

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 GRANTING IN PART,
AND DENYING IN PART, PETITION
FOR DECLARATORY ORDERS**

Mailed Date: September 30, 2019

Adopted Date: September 4, 2019

TABLE OF CONTENTS

I.	BY THE COMMISSION	2
	A. Statement	2
	B. Petition for Declaratory Orders	3
	C. Decision No. C17-0750	4
	D. Positions of the Parties	7
	1. Public Service’s Request for Declaratory Orders.....	7
	2. IBM’s Notice Supporting and Joining the Petition	8
	3. Staff’s Notice Supporting Accepting and Ruling on the Petition	9
	4. Tri-State’s Notice Supporting the Petition as it Relates to Tri-State	10
	5. Boulder’s Response Opposing the Petition.....	10
	E. Discussion.....	12
	1. Agreement on Transfer of Assets Inside Substations.....	12
	2. Application Designating Assets Inside Substations for Transfer.....	15
II.	ORDER.....	17
	A. It Is Ordered That:	17
	B. ADOPTED IN COMMISSIONERS’ WEEKLY MEETING September 4, 2019.	18

I. BY THE COMMISSION

A. Statement

1. By this Decision, the Commission grants in part, and denies in part, the Petition for Declaratory Orders with Regard to the Portion of Commission Decision C17-0750 Concerning Public Service Assets (Real and Personal) Inside Substations, filed in this proceeding by Public Service Company of Colorado (Public Service) on January 25, 2019 (Petition).

2. In the Petition, Public Service seeks declarations regarding the potential transfer from Public Service to the City of Boulder (Boulder) of assets inside the six substations that Public Service currently uses to provide retail electric service to customers within Boulder. Public Service states that it submits the Petition in order to terminate controversies concerning the portions of Decision No. C17-0750, issued September 14, 2017, in this Proceeding No. 15A-0589E (Decision No. C17-0750 or the Decision), that address Public Service's assets inside these substations.

3. By this Decision, the Commission issues the following declaratory order:

Decision No. C17-0750 provides that Boulder may not commence condemnation proceedings to acquire any Public Service assets inside substations (real or personal) unless and until Boulder and Public Service reach mutual agreement on a transfer of assets inside existing Public Service substations.

4. The Commission denies Public Service's request to further declare that Decision No. C17-0750 provides Boulder may not commence condemnation proceedings to acquire Public Service assets inside substations, unless and until an application designating assets inside substations for potential transfer to Boulder is filed with the Commission and granted. The Commission finds that, through Decision No. C17-0750, it already considered and denied a

request from Boulder to approve the designation of assets inside substations for potential transfer from Public Service to Boulder through condemnation. The Commission finds Decision No. C17-0750 provides, if Boulder and Public Service reach agreement on a transfer to Boulder of assets inside substations, they will need to file jointly for approval of the transfer of those assets under § 40-5-105, C.R.S.¹ The Commission finds, absent such mutual agreement, Boulder would need to, and would have the right to, build new substations to serve its customers.

B. Petition for Declaratory Orders

5. In the Petition, Public Service seeks declarations from the Commission that:

[Decision No. C17-0750,] provides that [Boulder] may not commence condemnation proceedings to acquire any 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.²

6. Pursuant to Rule 4 *Code of Colorado Regulations* 723-1-1304(i)(II) of the Commission's Rules of Practice and Procedure, the Commission may issue a declaratory order to terminate a controversy or to remove an uncertainty affecting a petitioner with regard to any tariff, statutory provision, or Commission rule, regulation, or order. Public Service states that it submits the Petition in this proceeding to terminate controversies concerning the portions of Decision No. C17-0750 that address Public Service's assets inside substations.

¹ Section 40-5-105(1), C.R.S., provides as follows:

The assets of any public utility, including any certificate of public convenience and necessity or rights obtained under any such certificate held, owned, or obtained by any public utility, may be sold, assigned, or leased as any other property, but only upon authorization by the commission and upon such terms and conditions as the commission may prescribe[.]

² Petition at p. 18.

7. By Decision No. C19-0716-I, issued August 28, 2019, the Commission accepted the Petition. The Commission also waived any further response time to the Petition and indicated it would deliberate on the merits at its next Commissioners' Weekly Meeting.

C. Decision No. C17-0750

8. Decision No. C17-0750 granted, in part and with conditions, and denied, in part, the Third Supplemental Verified Application (Application), filed by Boulder in this Proceeding No. 15A-0589E on May 12, 2017. Through the Application, Boulder sought approval of a proposed separation of Public Service's existing electric distribution system to permit, on the one hand, Boulder to provide electric service to its future customers within the city limits with Boulder-owned facilities; and, on the other hand, Public Service to provide electric service to customers in unincorporated Boulder County. Boulder sought approval of the transfer of Public Service assets, both inside the six substations Public Service currently uses to provide retail electric service to customers within Boulder (identified as Substations A, B, C, D, E, and F), and outside those substations. Generally, assets outside the substations include the electric distribution property, plant, and equipment used, in whole or in part, to serve electric customers within Boulder, whether located within or outside the city limits.³ Generally, assets inside the substations include protective equipment, power transformers, and distribution switchgear, and easements for Boulder equipment and access.⁴

9. Through the Decision, the Commission conditionally approved the designation of assets *outside* the substations for potential transfer from Public Service to Boulder. The Commission ordered that, to secure final approval of the designation of these assets for transfer,

³ See Decision No. C17-0750 ¶ 15 (discussing description of assets for transfer in Boulder's Application).

⁴ See Decision No. C17-0750 ¶ 115 (describing assets Boulder seeks to acquire through its Application).

Boulder must file a corrected list of assets for transfer outside the substations for Commission approval, along with agreements providing Public Service needed easements and other real property rights and addressing payment by Boulder of the costs incurred by Public Service to effectuate municipalization and separate the system. The Commission noted this Proceeding No. 15A-0589E may conclude with a final decision designating the assets for transfer (outside the substations) from Boulder to Public Service upon the Commission's satisfaction that Boulder complied with the conditions in the Decision. The Commission instructed that, in the future, Boulder and Public Service shall file an application in a separate proceeding for final approval of the transfer of assets, pursuant to § 40-5-105, C.R.S., prior to when Boulder begins to operate its municipal electric utility.

10. Through the Decision, the Commission denied Boulder's request to approve the designation of assets *inside* the substations for potential transfer from Public Service to Boulder.

11. In its post-hearing statement of position, Boulder requested that, for all substations, the Commission allow Boulder and Public Service to resolve the issues associated with co-location and substation configuration (*e.g.*, physical separation, equipment access, easements) through Public Service's Open Access Transmission Tariff (OATT) process. Specifically, Boulder requested that the Commission order Public Service to process Boulder's Network Integration Transmission Service (NITS) application pursuant to the OATT within three months of Boulder's filing, and order that Boulder and Public Service negotiate substation co-location agreements while the NITS application is being processed. Boulder requested the Commission order that Boulder make a compliance filing describing the substation configurations approved in the NITS process and providing the substation co-location agreements(s), and order that Public Service make any required certificate of public convenience

and necessity filings, work with Boulder to create design drawings and specifications for the substations, and obtain bids for equipment and construction costs.⁵

12. In the Decision, the Commission found it was premature to designate any assets inside the substations for potential transfer from Public Service to Boulder. The Commission found Public Service had provided compelling evidence that it requires the existing distribution assets within Substations A, B, C, and E, because they are currently used to provide service to customers Public Service will continue to serve. For Substation D, the Commission found it appeared likely Boulder and Public Service would be able to work out arrangements through the transmission load interconnection and NITS processes. For Substation F, the Commission found the continued examination of what was referred to as the “Alt_EF” proposal could ultimately change the configuration and use of that substation.

13. The Commission concluded it was reasonable for Boulder and Public Service to rely upon the transmission load interconnection and NITS processes to attempt to resolve the required configurations and ownership arrangements inside the substations. The Commission noted these processes may determine that Boulder will need to construct new substations. The Commission stated that, alternatively, Boulder and Public Service may reach agreement on the sale to Boulder of existing equipment inside substations. The Commission explained, if such agreement is reached, the Commission could approve the transfer of assets inside substations later, because sales of facilities to Boulder would require Public Service to file application(s) approving the transfer under § 40-5-105, C.R.S. The Commission indicated that it expected the transmission load interconnection process would establish the required configurations and ownership arrangements within the substations, without requiring further action by the

⁵ See Boulder Statement of Position at pp. 12-13, 56 (August 15, 2017).

Commission before Boulder proceeds to condemnation. The Commission directed Public Service to work with Boulder in good faith pursuant to the transmission load interconnection process.

D. Positions of the Parties

1. Public Service's Request for Declaratory Orders

14. In the Petition, Public Service argues that Decision No. C17-0750 found it was “premature” to designate assets inside substations for transfer. Public Service argues the Commission specifically found, for Substations A, B, C, and E, that Public Service had provided compelling evidence that it requires the assets inside these substations to serve its customers. Public Service states the Commission found it was “premature” to designate assets for transfer at Substation D, although it appeared likely the parties would work out arrangements through the transmission load interconnection and NITS processes. Finally, Public Service states, for Substation F, the Commission found designation of assets for transfer “premature” because of the continued examination of the “Alt_EF” proposal.

15. Public Service argues that the Decision recognized Boulder and Public Service might reach agreement on a transfer of assets through the transmission to load interconnection request process. But Public Service contends the Decision ordered, if no agreement was reached, then Boulder would need to, and have the right to, build its own new substations.

16. Public Service contends that the Decision provides, if Boulder and Public Service do reach an agreement, then the Commission would review the agreement and determine whether to designate assets inside the substations for potential transfer, as it would no longer be premature for the Commission to make this determination. Public Service reasons it would be appropriate for the Commission to review any agreement to ensure it will result in safety,

reliability, and effectiveness of service being preserved.⁶ Public Service contends this would follow an application process similar to that used to designate assets outside the substations for transfer. Public Service contends this application would precede condemnation and be separate from the final application for approval of the transfer of assets prior to cut-over. Public Service contends these applications have different purposes—the first concerns whether the division will protect Public Service’s electric distribution system’s effectiveness, reliability, and safety, and the second concerns whether Boulder is ready and able to begin operations of its municipal utility.

17. Finally, Public Service claims the parties disagree on what constitutes “agreement” by Public Service to a transfer of assets. Public Service argues that the results of the System Impact Study Reports, from the OATT process, do not alone constitute agreement by Public Service to a transfer of assets, and this was made clear in the reports.⁷ Public Service contends that Boulder and Public Service still need to engage in additional engineering discussions as well as negotiate sharing and/or co-location agreements and a cost reimbursement agreement.

2. IBM’s Notice Supporting and Joining the Petition

18. On January 29, 2019, IBM, Inc. (IBM) filed a Notice of Support and Joinder of Relief Sought in Petition for Declaratory Order. IBM supports and joins the Petition. IBM argues that the Decision ordered Public Service would retain the six substations unless and until it and Boulder reach an agreement. IBM cites ¶ 145 of the Decision, which states, “this Decision results

⁶ Petition at ¶ 17 (citing Order Re: Judicial Review of the Colorado Public Utilities Commission Decisions, *City of Boulder v. Pub. Utils. Comm’n*, Case No. 14CV30047 (Boulder Dist. Ct., January 14, 2015)).

⁷ See Petition at ¶ 21 (quoting System Impact Study Report for Request #T-2018-1, issued October 31, 2018: “Nothing in this Report shall be deemed to be an agreement to transfer any interests in [Public Service] property to [Boulder]”). (Emphasis Omitted)

in no change in substation configurations, at this time.”⁸ IBM then points to ¶ 129, where the Decision directs Boulder and Public Service to “follow the transmission load interconnection request process, and also the NITS process, to attempt to resolve the required configurations and ownership arrangements inside the substations.”⁹ IBM next cites ¶ 148, where the Decision states Boulder can build new substations if it does not reach agreement with Public Service.

19. IBM also agrees with Public Service that no agreement has yet been reached between Boulder and Public Service. IBM reports the System Impact Study confirms that significant areas of uncertainty and dispute remain with respect to configuration and transfer of substation assets, especially Substation F. IBM further notes the SIS Agreement between Boulder and Public Service expressly requires the real property interests Boulder will need within substations and any access through Public Service property must be identified and co-location agreements and compensation agreed upon.

3. Staff’s Notice Supporting Accepting and Ruling on the Petition

20. On January 29, 2019, Staff of the Commission (Staff) filed a Notice Concerning Public Service Company’s Petition for Declaratory Order.

21. Staff agrees with Public Service that Boulder and Public Service have differing interpretations of Decision No. C17-0750. Staff urges the Commission to accept the Petition and issue a declaratory order resolving the issues identified in the Petition.

⁸ IBM Notice of Support and Joinder of Relief Sought in Petition for Declaratory Order, January 29, 2019 at p. 2 (quoting Decision No. C17-0750 ¶ 145).

⁹ *Id.* (quoting Decision No. C17-0750 ¶ 129).

4. Tri-State's Notice Supporting the Petition as it Relates to Tri-State

22. On January 30, 2019, Tri-State Generation and Transmission Association, Inc. (Tri-State) filed a Notice Regarding Public Service Company's Petition for Declaratory Orders.

23. Tri-State supports the Petition as it relates to the process for identifying assets and property rights inside the substations as well as the timing of acquisition of any such assets and property rights so as to ensure Tri-State's interests are not adversely affected. Tri-State states that its interest is in continued safe and reliable service at Substation F. Tri-State indicates that questions have been raised concerning the lists of assets and property rights outside the substations, specifically whether they contain assets or rights inside the substations, and that open issues remain concerning these assets and rights as well as implementation of the Separation Plan. Tri-State requests that the Commission continue to supervise the designation of assets for transfer outside the substation, as well as the identification of assets for transfer inside the substations and the proposed Separation Plan, as it relates to substations.

5. Boulder's Response Opposing the Petition

24. On June 12, 2019, Boulder filed a 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.

25. Boulder challenges the Petition as an untimely application for rehearing, reargument, or reconsideration (RRR) of the Decision, under § 40-6-114, C.R.S. Boulder contends the Decision already rejected the relief Public Service now seeks in the Petition and the period to file an application for RRR has long passed.

26. Boulder argues that Decision No. C17-0750 determined that it and Public Service were to follow the OATT load interconnection process for designating assets inside substations. Boulder suggests the Decision defers the designation of assets to this other process. Boulder contends that the Commission's final approval of assets *inside and* outside the substations will occur in a separate certificate of public convenience and necessity proceeding to be filed by Public Service after construction has commenced and prior to the cut-over date in a filing to approve the transfer under § 40-5-105, C.R.S.

27. Boulder contends that it and Public Service have reached "agreement" on all material issues. Boulder states that it and Public Service have completed the portion of the transmission load interconnection process relating to the division of facilities. Boulder reports that this includes Boulder building three new substations, eliminating any sharing of distribution equipment between Boulder and Public Service in a substation, and eliminating any use by Boulder of Substation E.

28. Boulder argues that there is no need for the new application requested in the Petition. Boulder reiterates that it and Public Service have already reached agreement because Public Service addressed all relevant requirements in the System Impact Study Report and Boulder agreed to comply with those requirements. Boulder argues that, in any event, the Decision does not require a new application. Boulder points to ¶ 6 of the Decision, where the Commission stated: "We expect the transmission load interconnection process will establish the required configurations and ownership arrangements within the substations without requiring further action by the Commission before Boulder proceeds to condemnation." Boulder suggests by this statement the Commission recognized the final designation of assets inside substations would occur later, when Public Service and Boulder filed the application for transfer of assets

inside and outside the substations prior to cut-over. Boulder contends the Decision therefore requires only that Boulder satisfy the conditions in the Decision with regard to assets outside substations, and submit a Load to Transmission Interconnection Application for assets inside substations. Boulder argues that the Decision provides that if Boulder agrees to the conditions imposed by Public Service, Boulder can proceed to condemnation, with the caveat the Commission will consider approval of the transfer of all assets prior to cut-over.

E. Discussion

1. Agreement on Transfer of Assets Inside Substations

29. We grant the request for the first declaratory order sought by Public Service. We will therefore issue the following declaratory order:

Decision No. C17-0750 provides that Boulder may not commence condemnation proceedings to acquire any Public Service assets inside substations (real or personal) unless and until Boulder and Public Service reach mutual agreement on a transfer of assets inside existing Public Service substations.

30. In issuing this declaratory order, we clarify that Decision No. C17-0750 functions differently than both Boulder and Public Service suggest. Specifically, the Decision provides two remaining paths for Boulder with respect to assets inside substations: either Boulder and Public Service reach an agreement on the transfer of some or all of the assets inside Public Service's substations, through the transmission load interconnection and NITS processes and related negotiations, or Boulder will need to, and have the right to, build its own substations to serve its customers.

31. We find that, through Decision No. C17-0750, the Commission has already considered and denied a request from Boulder to approve the designation of assets inside substations for potential transfer from Public Service to Boulder through condemnation. We find no grounds to now re-litigate this issue and hold another evidentiary hearing to attempt to elect

among alternatives for division of the substation assets. The Commission already heard robust testimony, both written and at hearing in 2017 about the dangers and complications of co-locating equipment within Public Service’s substations in the Boulder area. As Public Service reiterated in its post-hearing statement of position, these substations were not designed with co-location in mind and, as a result, the equipment is not placed so that there can be physical separation of the transmission and distribution equipment.¹⁰ And as Public Service has previously explained, although Boulder proposes each utility have separate control buildings and equipment be installed to protect the equipment of each utility, it would still be the case that personnel working for Boulder could access or inadvertently damage Public Service’s equipment because there is no physical separation between the equipment Boulder proposes that Public Service retain and the equipment Boulder proposes to take.¹¹

32. We find the plain language of Decision No. C17-0750 supports these findings:

33. First, the Decision makes clear that Public Service retains ownership of the six substations at issue. At ¶ 144, the Decision states, “Public Service will retain its feeder lines serving customers outside of the city limits and, in accordance with our decision above, the substations that serve those lines.” Likewise, at ¶ 145 the Decision clarifies, “this Decision results in no change to substation configurations, at this time.”

34. Second, wherever the Decision discusses a potential future transfer of substation assets from Public Service to Boulder, the Decision refers specifically to these parties *reaching agreement* on a transfer. At ¶ 128, the Decision states, “Boulder and Public Service may reach agreement on a transfer of assets at any or all of these substations.” At ¶ 129, the Decision

¹⁰ Public Service Statement of Position at p. 128 (August 15, 2017).

¹¹ *Id.* at p. 128 (citing Answer Testimony of Mr. Nickell (Hr. Ex. 202), p. 102, ln. 14 – p. 103, ln. 2).

concludes, “It is reasonable for Public Service and Boulder to rely upon the transmission load interconnection request process, and also the NITS process, to attempt to resolve the required configurations and ownership arrangements inside the substations.” At the following ¶ 130, the Decision states, “Public Service and Boulder may reach agreement on the sale to Boulder of existing transformers and other distribution equipment within the substations.” And at ¶ 131, the Decision states, “Based on testimony, it appears likely that Public Service and Boulder will be able to work out arrangements for Substation D through the transmission load interconnection and NITS processes.”

35. Likewise, wherever the Decision discusses the parties returning to the Commission for further approval(s), it refers to an application to approve the *sale* and *voluntary transfer* of assets under § 40-5-105, C.R.S. At ¶ 130, the Decision instructs, “The Commission can approve the transfer of facilities inside substations at a later time, because sales of facilities to Boulder will require Public Service to file application(s) under § 40-5-105, C.R.S.” And at ¶ 257, the Decision reiterates, “As explained above, it also may be necessary for Public Service and Boulder to file jointly for approval of a voluntary transfer of assets inside substations under § 40-5-105, C.R.S.”

36. Third, the Decision makes clear that, absent an agreement with Public Service on a transfer of substation assets, Boulder’s recourse is to build new substations to serve its customers. At ¶ 130, the Decision states, “The outcomes of these transmission load interconnection requests and NITS applications also may determine that Boulder will need to construct new substations in order to begin operations as a municipal utility.” At ¶ 148, the Decision states,

if Boulder acquires the distribution facilities outside substations, through either negotiated sale or condemnation, Boulder will have the technical means ... to

create a municipal utility ... As a municipal electric utility, Boulder will have the right to build new substations in order to serve the distribution facilities on the list of assets for transfer in the event the City is unable to reach agreement with Public Service on the purchase and/or reconfiguration of the existing substations through the normal transmission load interconnection process

(Emphasis Added).

2. Application Designating Assets Inside Substations for Transfer

37. We deny Public Service's request to further declare that Decision No. C17-0750 provides Boulder may not commence condemnation proceedings to acquire Public Service assets inside substations unless and until an application designating for potential transfer to Boulder of assets inside substations is filed and granted.

38. We find the Commission has already considered and denied a request from Boulder to approve the designation of assets inside substations for potential transfer from Public Service to Boulder through condemnation. We find that Decision No. C17-0750 provides that if Boulder and Public Service reach agreement on a transfer to Boulder of assets inside substations, they will need to file jointly for approval of the transfer of those assets under § 40-5-105, C.R.S. Absent such agreement, Boulder would need to, and would have the right to, build new substations to serve its customers.

39. In the Petition, Public Service emphasizes that the Commission repeatedly uses the terms "premature" and "at this time." Public Service contends this means the Commission meant to reserve the issue of designating assets inside substations for transfer for future consideration, rather than foreclose further litigation on this issue. We find these references to "premature" and "at this time" must be read in context of the full Decision. Although the term "premature" may suggest the Decision deny this part of the Application turned on timing, we find more compelling that wherever the Decision addresses how and when Boulder and Public

Service are to return to the Commission for further approval(s), the Decision refers only to the approval of the *sale* and *voluntary transfer* of assets inside substations under § 40-5-105, C.R.S. We find no clear indication in the Decision that the Commission requires or would entertain another application to approve a designation of assets inside substations for potential transfer in condemnation. We find that if the Commission had meant to require another application to designate assets inside substations for potential transfer, it would have used different terms to describe how and when the parties were to return to the Commission for additional proceedings.

40. Thus we find the Decision requires only that Boulder and Public Service return to the Commission with a joint application for approval of the transfer of assets inside substations under § 40-5-105, C.R.S., pursuant to any agreement they are able to reach through the transmission load interconnection and NITS processes and related negotiations.

41. Again we find the plain language in the Decision supports these findings:

42. First, as discussed above, wherever the Decision addresses how and when Boulder and Public Service are to return to the Commission for further approval(s), the Decision refers to an application to approve the *sale* and *voluntary transfer* of assets under § 40-5-105, C.R.S. At ¶ 130, the Decision states, Boulder and Public Service “may reach agreement on the sale to Boulder” of substation assets. This ¶ 130 continues, “The Commission can approve the transfer of facilities inside substations at a later time, because sales of facilities to Boulder will require Public Service to file application(s) under § 40-5-105, C.R.S.” Likewise, at ¶ 257 the Decision reiterates, “As explained above, it also may be necessary for Public Service and Boulder to file jointly for approval of a voluntary transfer of assets inside substations under § 40-5-105, C.R.S.”

43. Second, these instructions in ¶¶ 130 and 257 of the Decision to file an application for approval of the *sale* and *voluntary transfer* of assets are consistent with the Commission’s summary at ¶ 6 of the Decision, where the Commission stated, “We expect the transmission load interconnection process will establish the required configurations and ownership arrangements within the substations without requiring further action by the Commission before Boulder proceeds to condemnation” (emphasis added). This is further support that the Commission only intended to revisit assets inside substations when it was asked to approve a sale and voluntary transfer of assets pursuant to § 40-5-105, C.R.S.

44. Finally, in denying this part of the Petition, we clarify that the Commission does not cede to the parties or condemnation court the authority to approve a designation of assets for transfer through condemnation. Instead, we find that though Decision No. C17-0750, the Commission already considered and denied that portion of Boulder’s Application. As stated herein, Decision No. C17-0750 provides two remaining paths for Boulder with respect to assets inside substations: either Boulder and Public Service reach agreement on a transfer of some or all of the assets inside Public Service’s substations, through the transmission load interconnection and NITS processes and related negotiations, or Boulder will need to, and have the right to, build its own substations to serve its customers.

II. ORDER

A. It Is Ordered That:

1. The Petition for Declaratory Orders with Regard to the Portion of Commission Decision C17-0750 Concerning Public Service Assets Inside Substations, filed in this proceeding by Public Service Company of Colorado on January 25, 2019, is granted in part, and denied in part, consistent with the discussion above.

2. The Commission issues the following declaratory order:

Decision No. C17-0750 provides that the City of Boulder may not commence condemnation proceedings to acquire any Public Service assets inside substations (real or personal) unless and until the City of Boulder and Public Service reach mutual agreement on a transfer of assets inside existing Public Service substations.

3. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
September 4, 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