

Decision No. C20-0656

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 20A-0319FE

IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO FOR AN ORDER GRANTING TO IT A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO EXERCISE FRANCHISE RIGHTS IN THE TOWN OF CARBONDALE, COLORADO.

**DECISION DEEMING APPLICATION COMPLETE
AND GRANTING THE APPLICATION**

Mailed Date: September 14, 2020
Adopted Date: September 9, 2020

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for consideration of an application filed by Public Service Company of Colorado (Public Service Company or Company) on July 28, 2020, for a Certificate of Public Convenience and Necessity (CPCN) to exercise franchise rights in the Town of Carbondale, in Garfield County, Colorado (Carbondale or the Town).

2. The Commission provided notice of this application on August 7, 2020, to all interested persons, firms, and corporations. No petition to intervene or notice of intervention has been filed, and thus the application is uncontested. As such, the application will be determined without a formal hearing in accordance with § 40-6-109(5), C.R.S., and Rule 1403 of the Rules of Practice and Procedure, 4 *Code of Colorado Regulations* 723-1.

B. Findings and Conclusions

3. Public Service Company is engaged in, *inter alia*, the generation, transmission, purchase, distribution, and sale of electric service in its certificated areas in the State of Colorado. Carbondale is located within one such certificated area.

4. The Company requests that the Commission issue an order granting it a CPCN to exercise franchise rights in Carbondale. In Ordinance No. 3, Series 2020, adopted April 14, 2020, the Town granted Public Service a 15-year franchise to provide electric service within Carbondale, expiring April 11, 2035.

5. On December 1, 1958, Carbondale passed and adopted Ordinance No. 5-1958, granting Public Service Company a franchise to provide electric service within Carbondale. On January 13, 1959, the Commission, in Decision No. 51545, Application No. 16777, granted Public Service Company, a CPCN to exercise franchise rights as described in Ordinance No. 5-1958.

6. On January 15, 1979, Carbondale passed and adopted Ordinance No. 29, Series 1978, granting Public Service Company a franchise to provide electric service within Carbondale. On August 7, 1979, the Commission, in Decision No. C79-1219, Application No. 31925, granted Public Service Company, a CPCN to exercise franchise rights as described in Ordinance No. 29, Series 1978.

7. Pursuant to Ordinance No. 1, Series of 1999 adopted January 26, 1999, the Town extended the franchise to February 14, 2000. Pursuant to Ordinance No. 1 Series of 2000, adopted January 11, 2000, the Town extended the franchise to September 26, 2000. Pursuant to Ordinance No. 22 Series of 2000, adopted July 25, 2000 the Town extended the franchise to September 25, 2001. On February 22, 2001, the Commission, in Decision

No. C01-155, Proceeding No. 01A-014F, granted Public Service Company, a CPCN to exercise franchise rights as described in Ordinance No. 22, Series of 2000.

8. Pursuant to Ordinance No. 23 Series of 2000, adopted August 28, 2001, the Town extended the franchise to January 8, 2001. Pursuant to Ordinance No. 28 Series of 2001, adopted November 27, 2001, the Town extended the franchise to January 28, 2003. On March 8, 2002, the Commission, in Decision No. C02-273, Proceeding No. 02A-076F, granted Public Service Company, a CPCN to exercise franchise rights as described in Ordinance No. 28, Series of 2001.

9. Pursuant to Ordinance No. 3 Series of 2003, adopted January 28, 2003, the Town extended the franchise to July 27, 2004. On January 20, 2004, the Commission, in Decision No. C04-0056, Proceeding No. 03A-551FE, granted Public Service Company, a CPCN to exercise franchise rights as described in Ordinance No. 3, Series of 2003.

10. Pursuant to Ordinance No. 4 Series of 2004, adopted January 27, 2004, the Town extended the franchise to July 27, 2004. Pursuant to Ordinance No. 22 Series of 2004, adopted July 27 2004, the Town extended the franchise to January 11, 2005. Pursuant to Ordinance No. 1 Series of 2005, adopted January 11, 2005, the Town extended the franchise to April 12, 2005. Pursuant to Ordinance No. 4 Series of 2005, adopted April 12, 2005, the Town granted to Public Service a 15-year franchise to provide electric service to the Town. On July 18, 2005, the Commission, in Decision No. C05-0876, Proceeding No. 05A-275FE, granted Public Service Company, a CPCN to exercise franchise rights as described in Ordinance No. 4, Series 2005.

11. The area for which the CPCN is requested is included in a larger area certificated to Public Service Company.

12. A utility wishing to exercise any franchise agreement or privileges entered with a municipality must obtain a CPCN from the Commission pursuant to § 40-5-102, C.R.S. When the municipality and utility enter into a franchise agreement, that agreement must be submitted to the Commission for approval. *See* § 40-5-102, C.R.S. Such applications allow the Commission to review franchise agreements to ensure that the terms are reasonable and in the public interest.

13. The Commission understands the utility and the municipality may want to revise the terms established in a franchise agreement at some point in the future and that existing franchise agreements have scheduled expiration dates. Upon negotiation of a new or amended franchise agreement, the utility shall return to the Commission in a timely manner to obtain authorization to implement the provisions of the new franchise agreement. In the event that this franchise is not renewed at the expiration of its term or is terminated for any reason, the Company is directed to notify the Commission in a timely manner.

14. According to the franchise agreement presented in this application, as consideration for the franchise rights granted and in recognition of Public Service Company's right to use Town streets, the Town requires Public Service Company to collect and remit to the Town, a franchise fee equal to 3 percent of all revenues received from the sale of electric service within the Town, excluding revenues received from the Town for the sale of electric service to the Town.

15. No other utility is authorized to provide electric service within the area for which Public Service Company seeks a certificate in this application.

16. We find the franchise is required by public convenience and necessity and the terms of the franchise agreement are just, reasonable, and in the public interest. However, in the

event that issues of revenue requirement, cost allocation, and rate design are implicated by any provision of the franchise agreement, those issues will be analyzed in an appropriate Commission proceeding. Approval of the franchise agreement does not constitute approval of or precedent regarding any principle or issue in revenue requirement, cost allocation, or rate design in any electric and electric service adjustment, refund, or rate case proceedings.

17. The Company's electric tariff, currently on file with the Commission, will be used for services under this application.

18. We find Public Service Company has the financial ability and is qualified and competent to conduct the utility operations sought under its application.

19. Providing uninterrupted service to the residents of Carbondale is in the public interest. Therefore, the Commission finds that the application is in the public interest and should be granted.

II. ORDER

A. The Commission Orders That:

1. The application filed on July 28, 2020, by Public Service Company of Colorado (Public Service Company), for a Certificate of Public Convenience and Necessity (CPCN) to exercise franchise rights pursuant to Ordinance No. 1, Series 2020, in the Town of Carbondale, Colorado is deemed complete and granted.

2. The grant of the CPCN to operate under the terms of this franchise agreement is in the public interest and in accordance with the terms of § 40-5-102, C.R.S.

3. The franchise agreement between Public Service Company and the Town of Carbondale and the rights and obligations associated therewith are scheduled to expire on April 11, 2035.

4. The 20-day time period provided by § 40-6-114(1), C.R.S., to file an application for rehearing, reargument, or reconsideration shall begin on the first day after the Commission mails this Decision.

5. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
September 9, 2020.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JEFFREY P. ACKERMANN

JOHN GAVAN

MEGAN M. GILMAN

Commissioners