

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

\* \* \*

IN THE MATTER OF THE APPLICATION OF )  
EASTERN COLORADO UTILITY COMPANY, )  
EADS, COLORADO, FOR A CERTIFICATE )  
OF PUBLIC CONVENIENCE AND NECESSITY )  
AUTHORIZING THE CONSTRUCTION OF )  
NATURAL GAS SYSTEMS FOR THE TRANS- )  
MISSION, DISTRIBUTION AND SALE OF )  
NATURAL GAS IN THE TOWNS OF BYERS, )  
STRASBURG, AND BENNETT, IN THE AREAS )  
ADJACENT THERETO AND ALONG THE ROUTE )  
OF THE TRANSMISSION AND DISTRIBUTION )  
MAINS TO BE CONSTRUCTED TO RENDER )  
SUCH SERVICE IN ADAMS AND ARAPAHOE )  
COUNTIES, COLORADO. )

APPLICATION NO. 19118

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IN THE MATTER OF THE APPLICATION OF )  
PLATEAU NATURAL GAS COMPANY, 20 )  
BOULDER CRESCENT, COLORADO SPRINGS, )  
COLORADO, FOR CERTIFICATE OF PUBLIC )  
CONVENIENCE AND NECESSITY AUTHORIZ- )  
ING THE CONSTRUCTION OF NATURAL GAS )  
SYSTEMS FOR THE TRANSMISSION, DISTRI- )  
BUTION AND SALE OF NATURAL GAS IN )  
CERTAIN AREAS OF ADAMS AND ARAPAHOE )  
COUNTIES, COLORADO. )

APPLICATION NO. 19120

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September 4, 1962  
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Appearances: John J. Lefferdink, Esq., Eads,  
Colorado, and  
Leonard M. Campbell, Esq., Den-  
ver, Colorado, for Eastern  
Colorado Utility Company;  
John A. Phillips, Esq., Colo-  
rado Springs, Colorado, for  
Plateau Natural Gas Company;  
Bryant O'Donnell, Esq., Denver,  
Colorado, for Public Service  
Company of Colorado, as its  
interests might appear;  
Lewis Poe, Esq., Colorado  
Springs, Colorado, and  
Robert C. McHugh, Esq., Colo-  
rado Springs, Colorado, for  
Natural Gas Producers, Inc.,  
as its interests may appear;  
Everett R. Thompson, Denver,  
Colorado, and

J. M. McNulty, Denver, Colorado, and  
Paul M. Brown, Denver, Colorado, for the Staff of the  
Commission.

S T A T E M E N T

By the Commission:

The above applications are for certificates of public convenience and necessity to supply natural gas service in essentially the same area which includes the unincorporated communities of Byers and Strasburg, the incorporated community of Bennett and the area contiguous to the proposed transmission line extending from the Town of Deer Trail to the Town of Bennett, all in Colorado.

Application No. 19118, of Eastern Colorado Utility Company (Eastern), was filed with this Commission on May 23, 1962, and was set for hearing on June 4, 1962. Application No. 19120, of Plateau Natural Gas Company (Plateau), was filed May 25, 1962, and was set for hearing on June 6, 1962. There was also set for hearing on June 4, 1962, Application No. 19119, being an application for approval of issuance of securities by Eastern, which application will be the subject of a separate decision. All three applications were heard on a joint record.

Since the application of Eastern was set down for hearing first, Plateau appeared as a protestant. It was stated by the presiding Commissioner that due to the similarity of the certificate applications, both as to purpose and area to be served, the hearings on these applications and the securities application could be consolidated on June 6, Eastern would present its case in chief and barring advent of further appearances in the application of Plateau, set down for June 6, the hearing would proceed on a consolidated record. No further appearances were entered.

Eastern now holds a certificate of public convenience and necessity for the distribution and sale of natural gas in Deer Trail, Sheridan Lake and Kit Carson, Colorado, and is a public utility subject to the jurisdiction of this Commission. Its principal office is

at Eads, Colorado.

Plateau holds certificates of public convenience and necessity to supply service in approximately 50 communities in the States of Colorado and Kansas. It is a public utility subject to the jurisdiction of this Commission as to its operations in Colorado, only. Its principal office is located in Colorado Springs, Colorado.

Each is a Colorado corporation and their Articles of Incorporation, together with all amendments thereto, have heretofore been filed with this Commission.

Eastern had indicated in its application a desire to extend its service westerly from Deer Trail to Watkins, Colorado, located ten miles westerly from Bennett. Public Service has an interest in serving the Watkins community and if Applicant intended to include Watkins in its certificate application, Public Service intended to protest. Eastern stated that they have had no request for service at Watkins, Watkins was not included in its immediate plans to serve, and it would withdraw its request for a certificate to serve the area westerly from Bennett. This amendment satisfied Public Service which then was granted leave to withdraw from participation.

Eastern presented several witnesses, being bankers and businessmen from the communities of Strasburg and Byers, who testified that the public convenience and necessity required natural gas service in their areas. Present sources of fuel are fuel oil and propane gas, and it was their belief that with a supply of natural gas being available fuel costs to the consumers could be substantially reduced. Primarily they support Applicant, Eastern, because of its initial and continued interest in surveying and creating interest in a market for furnishing natural gas to the communities. Upon cross-examination by Plateau, these witnesses indicated their primary interest was in a supply of gas and that other things being equal they felt the utility to supply natural gas at the lowest cost might be granted a certificate of public

convenience and necessity.

The Mayor and Town Clerk of Deer Trail stated they had been receiving natural gas service from Eastern since 1956. Customer saturation is nearly 100%. Service is satisfactory. The Town Clerk serves as a collection agent for Eastern and testified the only complaints he had received was an occasional one about a high bill.

It was pointed out by the President of Eastern that they had been supplying gas in the Town of Deer Trail since 1956 as well as in the communities of Sheridan Lake and Kit Carson and they now sought to supply natural gas to the unincorporated communities of Byers and Strasburg, the incorporated town of Bennett, and in an area extending for one-half mile either side of the transmission line. These towns are all located along U S. Highway 40-287. The Town of Bennett is located  $21\frac{1}{2}$  miles, Strasburg  $16\frac{1}{2}$  miles, and Byers  $10\frac{1}{2}$  miles from Deer Trail, all in a northwesterly direction. It is proposed to supply these communities and the areas contiguous to a route which will follow Highway 40-287 from a natural gas transmission line connecting to the pipeline of Natural Gas Producers, Inc., a pipeline company, of Colorado Springs, Colorado.

Hearings in these applications began June 4, 1962, and were not concluded until July 5, 1962. During this interval, the Town of Bennett on final reading adopted a franchise ordinance granting to Eastern the franchise to supply natural gas service in said Town.

No other utility is supplying natural gas service in the area; however, Plateau has filed an application to serve. Plateau's nearest point of natural gas service is at Limon, Colorado, approximately 50 miles from Byers and 70 miles from Bennett.

Applicant proposed to finance its construction by means of a loan of \$150,000 from the Small Business Administration, an agency of the Federal Government, including participation of 10% of this amount by banks in Eads, Strasburg and Byers. The balance of the estimated

construction cost is to be provided by equity capital supplied by the principal stockholders of Eastern, Messrs. Schmidt and Crow. Schmidt and Crow, a partnership, are construction contractors and it is their intent to provide the labor and equipment necessary for the installation of the transmission and distribution systems in lieu of cash.

At the first reading of the franchise ordinance the Town of Bennett adopted a resolution urging this Commission to act favorably upon the application of Eastern assuming that the rates of Eastern and Plateau are about the same as determined by this Commission. Service is to be supplied at the same rates as Eastern now offers in Deer Trail, the tariff for which is on file with this Commission.

Presently, Eastern employs four men who are headquartered in Eads, Colorado, located approximately 135 miles from Strasburg. These four men spend about 75% of their time on the operations of Eastern and the rest of their time is devoted to the activities of Schmidt and Crow, contractors. There is a collection office located at Deer Trail, where applications, complaints and payments for service may be made. However, if the Commission grants a certificate to Applicant, it would permanently station a service man in the area of Bennett, Strasburg, Byers and Deer Trail.

Cross-examination by Plateau suggested an absence of arm-length-bargaining in the matter of costs of construction if Schmidt and Crow were to build this system without competitive bidding and thereby possibly create a higher than necessary cost for construction and ultimate rate base, a substantial factor on which cost of service is determined. It was testified that bids would be obtained for labor costs by Schmidt and Crow and should bids be received which are more advantageous than those of Schmidt and Crow then the job would be awarded to the low bidder. Before the conclusion of the hearing, Exhibits "P", "Q" and "R" were offered. These exhibits were bids for construction

labor by Striegel Construction Co. of Rangely, Colorado, Sterling Construction Company and Schmitt and Crow of Eads, Colorado, on a unit bid basis. The offer of Schmitt and Crow of \$55,946 is approximately \$20,000 less than the next lowest bid. A firm bid price for coated and wrapped pipe has been received by Eastern from Colorado Pump Company.

Inasmuch as Eastern has received a franchise from the Town of Bennett, Plateau suggested Eastern might serve the Town of Bennett along with its service in Deer Trail if Plateau were to be granted a certificate to serve the communities of Byers and Strasburg and for a gas transmission line to the Bennett town border station. This suggestion has little to commend it inasmuch as the Town of Bennett by itself is barely a feasible operation under the conditions of service proposed by Eastern and must be considered in conjunction with Byers and Strasburg.

The feasibility study of Eastern and construction cost estimates attached to its original application were revised in later exhibits and submitted at the hearing. In these revised exhibits, Eastern anticipates a total construction cost requirement for the connection of the ultimate number of consumers of \$250,000. A customer survey was made in the field. 472 residential and commercial customers are estimated to be connected by 1965. The customer use in its feasibility study is based upon the Company's actual sales experience at the Town of Deer Trail which is in the vicinity of the towns for which service is now proposed. There are no weather observation stations in the immediate area. Residential and commercial sales in Deer Trail for the years 1958, 1959, and 1960 were adjusted to a normal degree day deficiency based upon the experience at Denver as the basis for sales estimates in the proposed area. These communities are located approximately 36 miles east of Denver and lacking better information, it does not appear unreasonable to use the Denver observation as a starting basis.

The construction cost in the revised Exhibit "U" is based on the quotations received in Exhibit "R" and witness Crow's testimony of the firm bid price for pipe, coated and wrapped, by Colorado Pump Co. As of 1965, the gross estimated revenues will be \$73,500; the net income \$12,100, and on the Company determination of rate base of \$263,200 the rate of return is 7.11%. Eastern's study of its cash flow indicates it will be reasonably possible to cover all of their debt service requirements with cash balance remaining.

The most popular fuel presently in use in the area is propane, a liquefied petroleum gas, and its present average cost is 12¢ per gallon. The natural gas cost to the average consumer stated on an equivalent basis is 8.91¢ per gallon.

Plateau in their direct case produced Mr. Clarence Ludwick, a resident of Byers, Colorado, as a public witness. Mr. Ludwick has been a resident of Byers for some fifty years and is the owner of six pieces of property in the area. At the present time he uses propane as a fuel, but felt, from an economical standpoint, natural gas is to be preferred. In his opinion, public convenience and necessity would be better served if natural gas is made available to the residents of the area. He expressed no preference for either applicant in this hearing, but did state all other things being equal, he preferred to have the company authorized to serve that sold its gas at the cheaper rate.

Plateau Natural Gas Company seeks authority to serve a slightly larger area than that requested by Eastern; however, no mention was made of any additional customers to be served not contemplated by Eastern. It also seeks an order preliminary for the exercise of franchise rights in the Town of Bennett, this in spite of the showing by Eastern that it had already been granted by ordinance the franchise rights to serve natural gas in the Town.

Exhibits were introduced showing the service area desired,

estimated construction costs, a balance sheet and income statement, a market survey, and a feasibility study.

The source of natural gas to be obtained by Plateau is identical to the source that would be utilized by Eastern: that is, from the transmission line of Natural Gas Producers, Inc., from its transmission line in the vicinity of Deer Trail, Colorado. The Attorney for Natural Gas Producers, Inc., stated it was his Company's position that natural gas would be furnished to the applicant obtaining a certificate of public convenience and necessity from this Commission; that they had no preference whatever as to which company should serve.

Plateau would supply natural gas in accordance with its tariff now on file with this Commission under its rate schedule B-1 and C-1 for residential and commercial customers respectively. Its estimated cost of the facilities required to furnish natural gas to the consumers in this area is \$210,837. Plateau testified that its lower cost, as contrasted to Eastern, of materials and installation are based on its experience in prior construction and witness claimed that they had been able to make some "awfully good buys" in pipe during the fall of 1961 and spring of 1962. How much of such material now available was not shown. The estimates of construction cost were not based on firm bids. Witness further testified, substantially, that lower cost for labor was also based on prior experience and this lower labor cost could be because "some of the contractors got hungry," thus estimates for the total construction cost for Plateau are substantially judgment figures and the realization of the costs shown therein would be dependent upon the market for materials and labor at such time as bids would be called for.

The feasibility studies of Plateau were based on an aggregate of the Company's experience in its Northern Division Communities. The closest is the City of Limon, approximately fifty miles distant to the

southeast and others include the Towns of Hugo, Castle Rock, Fountain and Florence, located as much as one hundred miles distant. Plateau had assumed in its estimates the same Btu content of gas to be obtained from Natural Gas Producers as the Btu content of gas which it now receives from Colorado Interstate Gas. The heat content of CIG gas under standard conditions is 960 Btu per cubic foot, whereas the heat content of the gas obtained from Natural Gas Producers, Inc., is 1,072 Btu per cubic foot. This is 11.6% greater heat content than contained in the gas of Colorado Interstate. The difference is such that a recognition must be made in determining the volume of sales that might be made in the communities of Byers, Bennett and Strasburg when the other communities of Plateau's Northern Division are the basis of its feasibility study. Plateau did not give consideration by estimate, or otherwise, of possible degree day deficiency difference that might obtain between Bennett, Strasburg, and Byers and its Northern Division Towns. This factor has a substantial influence on temperature affected sales.

Applicant submitted its Exhibit No. 8, a revised feasibility study showing its total revenues from sales of gas adjusted to 1,072 Btu. The revised revenue for 1965 is \$69,890, with a corresponding utility income of \$12,345, which related to estimated rate base of \$210,837, will produce a rate of return in the year of 1965 of 5.9%.

Eastern placed great emphasis on the rate of return anticipated by Plateau of 4.2% computed on the basis of its first full year of operation. It was implied that as a result of such a rate of return it might be necessary for Applicant to seek an increase in rates since Plateau's own witness testified he felt a rate of return of at least 7% would be reasonable. He further testified that when this operation is rolled in with total operation of Plateau he doubted it would make as much as 1/10 of 1% difference. Witness further testified that it was unreasonable to place any emphasis on the rate of return from the first

year's operation of a new gas distribution system and that in a previously undeveloped territory it was much more practicable to check the rate of return after a reasonable saturation of total potential customers had been achieved.

Plateau in its studies estimated in the year 1965 a connection of 522 customers, which is 29 more than its own count of existing customers as of the date of its application. It was further testified this increase was based on actual growth experience in other areas now served. However, no evidence was introduced to show that a home growth in the communities of Byers, Bennett and Strasburg had actually occurred. Plateau testified it would obtain competitive bids for construction.

Both applicants estimated it would require 120 days from the time a decision is issued in this case until natural gas would be introduced to the homes. This estimate of time required is based, of course, upon favorable weather conditions after issuance of an order.

Plateau would finance its construction from materials on hand, from a line of credit it now holds and from further equity money to be placed by its stockholders in the event the granting of a certificate.

Mr. Fullerton, witness for and President of Plateau was asked on cross-examination:

Q: "Now taking a hypothetical case in which we have three towns, and we will call them 1, 2 and 3 and we have a utility company that operates in another town, we will call it Town 4. Would you recommend as good utility practice that the utility company operating in 4 be granted a certificate in Town 1 and that another utility company into the middle of that area and serve Towns 2 and 3 between Towns 1 and 4?"

A: "No sir, I wouldn't unless all the factors remained equal."

Plateau submitted an exhibit showing a cost comparison for volumes of gas, domestic, commercial and school on rates of Eastern

and on rates of Plateau. In the example for domestic service Plateau's rates were stated to be a savings to the customer of \$37.33 per annum. In this exhibit no attempt was made to adjust the 158 Mcf, which Plateau stated would be the average annual use per customer, to the degree day deficiency that might obtain which consideration would tend to reduce total annual use, nor was any recognition made of the higher Btu content of the gas supplied in this area as versus the gas supplied in its Northern Division which would also tend to reduce the total annual use. Nor was distinction made between volumes of gas that would be measured by the meters of Eastern or Plateau. This distinction should be recognized since Plateau proposes to use temperature compensated meters, which would, according to its own experience, register approximately 4% greater volume than the non-temperature compensated meters to be used by Eastern. Therefore, the comparison does not apply to the conditions that would obtain in the Bennett, Byers and Strasburg area. Similar arguments can also be made for the comparison of commercial use and school use. In the case of the school, Plateau indicated an annual use volume of 5,195 Mcf. This figure is based on an annual billing to a school in Plateau's territory located at Hugo, Colorado. Eastern objected to such a comparison and introduced its Exhibit "T". This exhibit showed the use of natural gas in the school at Deer Trail for the year 1961 at a volume of 1,905 cubic feet and further stated, in their opinion, the school at Deer Trail was about the same size, or a little larger than the other schools of the area. Therefore, a savings of \$1,235 a year if service were obtained from Plateau is without foundation. On the basis of exhibits and testimony as between Applicants, Eastern and Plateau, it becomes difficult to make any reasonable comparison of cost of service from either of the utilities.

Applicant, Eastern is now serving the Town of Deer Trail,

located ten miles from Byers on the nearer end and twenty-two miles from Bennett on the farther end and as evidenced by the testimony of the President of Plateau, it does not seem reasonable to award a certificate to one utility serving the extremes and to another utility to serve the towns between. Eastern applied for and obtained a franchise to supply natural gas service in the Town of Bennett and at the same time an application for a franchise had been made by Plateau. All of the conditions of gas service from either utility should have been before the Town Council when it made its determination as to which utility should be awarded a franchise.

Eastern has been actively surveying and promoting the use of natural gas in this area for many months and the attitude of the public witnesses favored Eastern. The Commission observes that it does not believe the interests of these reasonably closely related communities would best be served by dividing the area into pieces and offering a piece to each competing utility. The cost of providing such a service in such a manner would of necessity be increased due to duplication of manpower, supervision, and overhead expense and is of the opinion that a certificate should be granted to a single utility.

#### F I N D I N G S

##### THE COMMISSION FINDS:

That both applicants, Eastern and Plateau are public utilities subject to the jurisdiction of the Commission.

That Eastern presently holds a certificate of public convenience and necessity to serve the Town of Deer Trail.

That Eastern has been granted a franchise to serve the Town of Bennett.

That public convenience and necessity indicates that the same utility should supply all four of the neighboring communities of Deer Trail, Byers, Strasburg and Bennett and that a certificate of

public convenience and necessity should be granted therefor.

That the application of Plateau should be denied.

That Eastern should be granted a certificate of public convenience and necessity to construct a gas transmission and distribution to supply natural gas in the area described in the Order.

That Eastern should submit to the staff of the Commission for its examination its bid for the furnishing of materials and furnishing of labor for the construction of the natural gas transmission and distribution systems to serve the area sought herein before beginning construction.

That Eastern should file with the Commission, upon completion of the construction work, which means the time of introduction of natural gas into the transmission and distribution systems for the supplying of natural gas to its customers, the as constructed maps and total costs of construction by classified primary plant accounts.

That Eastern shall provide natural gas service to its customers in the area to be described in the Order to follow in accordance with its Tariff, Colorado P.U.C. No. 1, First Revised Sheet No. 4, which provides for residential and commercial service in the Town of Deer Trail, as now on file with this Commission or as it may be revised according to the rules of this Commission or the law.

#### O R D E R

#### THE COMMISSION ORDERS:

That the application of Plateau Natural Gas Company to construct a natural gas distribution and transmission line to serve the unincorporated communities of Byers and Strasburg and the incorporated community of Bennett and areas contiguous to its transmission line should be denied.

That Eastern Colorado Utility Company is hereby authorized to construct a gas transmission line, in accordance with the plans and specifications submitted at the hearing, extending along U. S. Highway

40 - 287, from Deer Trail to the unincorporated communities of Byers and Strasburg, the incorporated Town of Bennett, Colorado, and for a distance of one-half mile on either side of said transmission line and to construct a natural gas distribution system in the unincorporated communities of Byers and Strasburg and the incorporated community of Bennett, and this Order shall be taken, deemed, and held to be a certificate of public convenience and necessity therefor.

That Eastern shall submit to the staff of the Commission for its examination its bids for the furnishing of materials and labor for the construction of the natural gas transmission and distribution systems to serve the area sought herein before beginning of construction.

That Eastern shall file with this Commission upon completion of construction work the as constructed maps and total cost of construction by primary plant accounts.

That Eastern shall provide natural gas service to customers in this area in accordance with its Tariff Colorado P.U.C. No. 1 First Revised Sheet No. 4 as now on file with this Commission or as it may be revised according to the rules of this Commission or the law.

That Eastern shall maintain its operation as a public utility in accordance with the rules regulating the service of gas and electric utilities as promulgated by this Commission now in effect and as they may be hereafter amended.

That Eastern shall continue to maintain its books and accounts in accordance with the Uniform System of Accounts as prescribed by this Commission.

The Commission retains jurisdiction of this matter to make such further Order or Orders as it may deem necessary.

That this Order shall become effective forthwith.

THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

*Joseph F. Negro*  
*Ruby C. Nolan*  
*Amey E. Zurling*  
Commissioners

Dated at Denver, Colorado,  
this 4th day of September, 1961.  
mls