

Decision No. C23-0653

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 23V-0406GPS

IN THE MATTER OF THE PETITION OF PUBLIC SERVICE COMPANY OF COLORADO TO UPDATE THE 1989 WAIVER GRANTED FOR THE BF GOODRICH LATERAL PIPELINE LOCATED IN PUEBLO, COLORADO.

**COMMISSION DECISION GRANTING, IN PART,
PETITION SEEKING WAIVER OF RULES**

Mailed Date: October 3, 2023
Adopted Date: September 20, 2023

I. BY THE COMMISSION

A. Statement

1. By this Decision, the Commission grants, in part and subject to conditions, the Petition filed on August 8, 2023, (Petition) by Public Service Company of Colorado (Public Service or Company) seeking waiver of Rule 11008(b) of the Rules Regulating Pipeline Operators and Gas Pipeline Safety 4 *Code of Colorado Regulations* (CCR) 723-11, which incorporates by reference the federal safety standards for the transportation of natural gas and other gas by pipeline published in 49 *Code of Federal Regulations* (CFR) §192.625(a) and (b), requiring that a transmission pipeline be odorized when more than 50 percent of the pipeline is within a Class 3 location.

2. Consistent with the discussion below, the requested waiver subject to certain additional conditions is granted applicable to the dedicated natural gas pipeline to a single

industrial customer – B.F. Goodrich – in Pueblo, Colorado, for the earlier of five (5) years or until pertinent, updated federal or state regulations regarding leak detection are in effect.

B. Background

3. Through its Petition, the Company requests waiver of Commission Rule 11008(b) requiring that a transmission pipeline be odorized when more than 50 percent of the pipeline is within a Class 3 location. Public Service requests a “full temporary” waiver of the rule, subject to certain safety requirements, for ten (10) years.

4. In essence, the petition seeks to continue a waiver and conditions established in 1989 for the pipeline at issue.

5. Through Decision No. C89-766, issued May 31, 1989, as amended July 12, 1989 in Proceeding No. 89A-223G, the Commission granted a waiver of Commission Gas Pipeline Rules for the Company’s BF Goodrich large volume customer. Through its initial filings the Company proposed to install a dedicated unodorized natural gas pipeline in Pueblo, Colorado for approximately 800 feet of pipeline from a transmission line to the metering facility at the BF Goodrich plant.

6. Due to the specific uses of the natural gas at the facility, the Company represented that gas must be essentially void of sulfur compounds. As a result, the Company argued that “to odorize the natural gas for the 800 feet of pipeline and then attempt to remove the odorant would not be logical or economical.”

7. Through its 1989 order the Commission noted the obvious concern in not having the gas odorized in detection of leaks, and includes specific obligations proposed to better ensure leaks could be detected timely. The Commission further noted in its 1989 orders that federal

regulations require that a distribution line must contain a natural odorant or be odorized, as incorporated in the Commission's rules. Given the distribution line involved is an intrastate pipeline, the Commission further articulated that the waiver of the federal regulations was necessarily in a two-fold process – (1) waiver must be obtained from the Colorado Commission because it has incorporated federal regulation into its rules regulating pipeline safety; and (2) following consideration by the Colorado Commission and any waiver granted, a request for waiver shall then be considered by federal authorities.

8. Through its 1989 orders, the Commission found good cause to grant the requested waiver, subject to (1) markers every 200 feet; (2) written consumer notice; (3) recommending in writing that BF Goodrich install gas leak detection. Following consideration by federal authorities regarding the requested waiver, the Company sought revision, and the Commission granted, that these provisions to also include a leak survey at least twice per calendar year, not to exceed 7.5 months to parallel added federal requirements.

9. Through its August 2023 filing, the Company seeks the substantively same waiver and provisions, noting current provisions in 49 CFR Part 192.625(a) and (b) continue to require natural odorant or for a gas distribution line to be odorized, and that current Commission Rule 11008(b) incorporates by reference these federal standards. The Company's filing includes the same contingency requirements ultimately authorized in the 1989 waiver, in addition to the provision that the Company would also increase leak survey frequency "should regulatory requirements change."

10. No party has intervened or objects to the Petition, and the Company represents that it conferred with Staff of the Colorado Public Utilities Commission in preparation of its Petition.

C. Findings and Conclusions

11. The Petition is unopposed and may be considered without further hearing. We agree with the Company that good cause exists to grant the waiver of Rule 11008(b), 4 CCR 723-11, such that the subject pipeline serving the BF Goodrich facility can continue to be void of sulfur components, subject to the following conditions:

- a) markers every 200 feet upon the lateral pipeline to protect against damage;
- b) written customer notice of the hazard associated with unodorized gas within the plant;
- c) written recommendations to the customer that gas leak detection be installed;
- d) leak survey at least twice per calendar year not to exceed 7.5 months; and
- e) increasing leak survey frequency should regulatory requirements change.

12. However, we further recognize that leak detection technologies and processes continue to improve, including without limitation, the possibilities for continuous monitoring. The granted waiver limited to the otherwise required odorization component in no way excuses the Company from safety precautions required by law. We also continue to encourage and expect the Company to comply with all necessary safety requirements and appropriate technological updates.

13. In addition, we find the requested ten-year waiver is too lengthy, particularly given continuously improving technology, but also ongoing and likely rulemakings both before federal entities and this Commission. We therefore grant the requested waiver, subject to the above conditions, for the earlier of a period of five (5) years or until there is a change in state or federal law regarding pertinent lead detection regulations that the Company deems would implicate this waiver and its contingencies. We find that the more limited timeline that also recognizes the possibility for applicable changes in law in coming years better ensures appropriate review.

14. Further, and consistent with the process implemented in 1989, if any concurrent federal waiver for the pipeline in question has added contingencies inconsistent with this state waiver, we request the Company make an appropriate filing seeking any necessary updates be included here for consistency.

II. ORDER

A. It Is Ordered That:

1. The Petition filed on August 8, 2023, (Petition) by Public Service Company of Colorado (Public Service or Company) seeking waiver of Rule 11008(b) of the Rules Regulating Pipeline Operators and Gas Pipeline Safety 4 *Code of Colorado Regulations* (CCR) 723-11, is granted, in part, and subject to conditions, for the earlier of five (5) years, or until a pertinent change in state or federal law is made, consistent with the discussion above.

2. The 20-day time period provided by § 40-6-114, C.R.S., to file an application for rehearing, reargument, or reconsideration shall begin on the first day after the effective date of this Decision.

3. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
September 20, 2023.**

(S E A L)



ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Rebecca E. White".

Rebecca E. White,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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MEGAN M. GILMAN

TOM PLANT

Commissioners