

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

\* \* \*

IN THE MATTER OF THE APPLICATION OF	)	
EASTERN COLORADO UTILITY CO., FOR A	)	
CERTIFICATE OF CONVENIENCE AND NEC-	)	
CESSITY TO PURCHASE, DISTRIBUTE AND	)	
SELL NATURAL GAS IN THE INCORPORATED	)	
TOWN OF KIT CARSON, CHEYENNE COUNTY,	)	APPLICATION NO. <u>13520</u>
COLORADO, TO THE AREAS ADJACENT THERETO	)	
AND ALONG THE ROUTE OF THE DISTRI-	)	
BUTION MAIN TO BE CONSTRUCTED TO	)	
RENDER SUCH SERVICE.	)	
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September 23, 1955  
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Appearances: Hastings and Lefferdink, Esqs.,  
Eads, Colorado, for applicant;  
Robert A. Dick, Esq., and James  
Nelson, Esq., Denver, Colo-  
rado, for Pikes Peak Natural  
Gas Company, Protestants;  
E. M. Jones, Mayor of the Town  
of Kit Carson, for said Town;  
J. M. McNulty, Denver, Colorado,  
for the Commission.

S T A T E M E N T

By the Commission:

On June 28, 1955, Eastern Colorado Utility Co., through its attorneys, filed an application with this Commission for a certificate of public convenience and necessity to purchase, distribute and sell natural gas in the incorporated Town of Kit Carson, Cheyenne County, Colorado, in the areas adjacent to said Town, and along the route of the lateral bringing gas in the transmission main to the Town, and to exercise franchise rights granted to the Company by the Board of Trustees of the Town of Kit Carson.

The matter was set for hearing, and heard, after due notice to all interested parties, on August 9, 1955, at ten o'clock A. M., at 330 State Office Building, Denver, Colorado,

and at the conclusion of the evidence, was taken under advisement.

By letter of July 15, 1955, applicant requested permission from the Commission to amend Paragraph (4) of its filed application in the instant matter. The amendment, in effect, changed the ownership of the proposed lateral from applicant to Colorado Interstate Gas Company after said lateral would be constructed by applicant herein. The lateral is approximately five miles in length, and would transport the gas from the main transmission line of Colorado Interstate Gas Company to the Town border station at Kit Carson. At the hearing, counsel for applicant again requested the Commission to be permitted to amend the application in accordance with the letter filed on July 15, 1955. There being no objection to the Amendment, the Commission granted the request in accordance with said letter.

Eastern Colorado Utility Co., applicant herein, is a Colorado corporation organized and existing by virtue of the laws of said State, and by its Articles of Incorporation is authorized to do business as a public utility in the distribution and sale of natural gas. A certified copy of applicant's Certificate of Incorporation, together with an Amendment thereto, have heretofore been filed in Application No. 13519.

The Post Office address of applicant is Eads, Colorado. The incorporators and Board of Trustees are: J. F. Schmitt, George D. Crow, and Allen F. Payne, all of Eads, Colorado. Mr. Crow is the President, Mr. Schmitt is the Vice-President, and Mr. Payne is the Secretary of the corporation.

Testimony at the hearing revealed that Messrs. Schmitt and Crow are partners in a contracting business. The partnership has had considerable experience in the past in the construction of pipe line systems for gas and water, and, as a result, the partnership has the necessary equipment for the installation of the system contemplated herein, and they have the ability to not only install the system but to operate it, due to their

past experience. If the certificate is granted herein, the partnership will furnish all the necessary materials and labor and will construct the gas system. In return for material and services, the partnership will accept capital stock of the corporation. The capital stock of the corporation is authorized at 1,000 shares of \$100 par value. The actual original cost of the gas system will be determined after construction, and the stock will be exchanged on a dollar-for-dollar basis. In the event that there is any profit to Schmitt and Crow as a partnership, it will be set out and so designated in any bill rendered from the partnership to the corporation. At the hearing, Mr. Crow, as President of the corporation and as a witness for applicant, stated the corporation would set out on its books any profit paid by the corporation to Schmitt and Crow.

Applicant has previously been issued a certificate to serve the Town of Sheridan Lake in Application No. 13519. The following exhibits submitted in that application were made a part of this record, by reference:

Exhibits A & P: Articles of Incorporation and Amendment;

Exhibit F: Application of the Colorado Interstate Gas Company to FPC to supply gas to Kit Carson;

Exhibit L: Agreement between Schmitt and Crow as co-partners and the corporation, for the construction of the distribution system in Kit Carson;

Exhibit M: Financial statement of Mr. George D. Crow;

Exhibit N: Financial statement of Partnership of Schmitt and Crow;

Exhibit Q: Financial statement of Joseph F. Schmitt.

Also incorporated, by reference, was the testimony of Allen F. Payne, given in Application No. 13519.

It was estimated that the cost of construction for the facilities to serve Kit Carson would amount to \$20,087. The Balance Sheet of Eastern Colorado Utility Co. submitted at the hearing as Exhibit "J" reveals total assets in the amount of

\$21,000, of which \$10,000 is cash on deposit. No current liabilities are outstanding against the Company. Exhibit "M", by reference, from Application No. 13519, is a financial statement of Mr. George D. Crow, individual, listing his net worth at over \$115,000, of which approximately \$13,000 is fluid assets. Exhibit "N" also, by reference from said application, is a financial statement of the partnership of Schmitt and Crow. This statement reveals that the net worth of the partnership amounts to \$41,856.53, of which approximately \$6,000 is in cash. Exhibit "Q" also, by reference from said application, is a financial statement of Mr. Joseph F. Schmitt, listing his net worth as approximately \$43,000, of which \$6,000 is in fluid assets. Both Mr. Crow and Mr. Schmitt have pledged the assets of the partnership and their respective individual assets as a guarantee for the performance by the Corporation of the construction and operation of the gas system sought to be certificated herein.

Applicant will obtain its gas from the Colorado Interstate Gas Company, the wholesale supplier of gas in this area. Introduced as Exhibit "F" herein, by reference from Application No. 13519, was a copy of an application made by Colorado Interstate to the Federal Power Commission, seeking authority to deliver gas to applicant for distribution and sale in the Towns of Sheridan Lake and Kit Carson.

Applicant expects to serve approximately 145 customers in Kit Carson and the surrounding area. It was estimated that it would take approximately sixty days after start of construction to construct the distribution system in the Town. Applicant also proposed to odorize all gas in its distribution mains prior to the sale to customers.

Because of the smallness of the proposed operation, applicant advocated that each customer to be connected to the system pay as a "Contribution in Aid of Construction" an amount of \$25.00.

This, in the opinion of the witness, would tend to make this project more economically feasible. If applicant were not permitted to charge the \$25.00 for each customer, then the witness advocated a slightly higher gas rate. Cross-examination at the hearing, of the various customer-witnesses, revealed that there was no unanimity as to either method proposed by the Company. Some of the witnesses were not sure that they would be willing to contribute \$25.00, and some of these same witnesses did not feel they should pay the higher rate in lieu thereof. The staff requested that applicant file as a late-filed exhibit, either a Consent by the prospective customers that they would be willing to pay the \$25.00 contribution, or else would agree to a rate slightly higher than the one originally proposed by applicant, as set forth in the Agreement introduced at Exhibit "D" in the instant matter. On September 14, 1955, attorneys for applicant advised the Commission that the Company and the customers were unable to reach an agreement in regard to the contribution or the increased rate, and therefore the Company has agreed to render the service at the rates as initially proposed and without collecting any amount as a "Contribution in Aid of Construction."

Introduced at the hearing as Exhibit "A" was a copy of Ordinance No. 24, passed and approved on final reading by the Board of Trustees of the Town of Kit Carson, on November 1, 1954, granting to Eastern Colorado Utility Co., its successors and assigns, the right and authority to construct, install, maintain, and operate, a gas transmission and distribution system for the sale of gas in said Town. The franchise is for a period of twenty-five years. Applicant accepted said franchise on November 17, 1954, and a copy of said acceptance is filed herein as Exhibit "B." Exhibits "A" and "B" are made a part of this Statement, by reference.

The Mayor of Kit Carson, and other prospective customers in the Town and surrounding area, testified as to the necessity

for natural gas. All of the witnesses believed that natural gas would be more convenient than the "bottle gas" now being used and desired this new service. The only controversy, as heretofore noted, was over the "Contribution in Aid of Construction" or the higher rate. Filed as Exhibit "E" at the hearing was a Resolution by the Town Board, authorizing its Mayor, E. M. Jones, to appear before the Commission in support of the instant application.

The nearest natural gas utility to Kit Carson is the Pikes Peak Natural Gas Company at Eads, Colorado, approximately twenty miles south of Kit Carson. Pikes Peak protested the granting of the instant application. Introduced as Exhibit "F" at the hearing was a certified copy of Ordinance No. 25, signed by the Town Clerk of Kit Carson. Ordinance No. 25 cancels and terminates Ordinance No. 22 which granted a franchise for natural gas to Pikes Peak Natural Gas Company. There is no conflict between applicant's proposed operations in Kit Carson and any other natural gas public utility.

Applicant has been informed as to the Commission's requirement regarding the Uniform System of Accounts to be maintained, the filing of Annual Reports, the Rules Regulating Gas Service promulgated by the Commission, and the procedure for the filing of rates, rules and regulations by the utility. In the interest of public health and safety, applicant shall be required to install suitable equipment to odorize all gas in its mains before sale to customers. The fee for the issuance of the certificate sought herein will be based upon the estimate of applicant for the cost of the system in an amount of \$20,087.

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

##### THE COMMISSION FINDS:

That Applicant, Eastern Colorado Utility Co., proposes to operate as a public utility as defined in Colorado Revised Statutes, Chapter 115, Section 1-3.

That this Commission has jurisdiction of the proposed operations of said Company, and of the subject matter of the

instant application.

That the Commission is fully advised in the premises.

That Eastern Colorado Utility Co., applicant herein, is a corporation duly qualified to do business in the State of Colorado, and that a certified copy of its Articles of Incorporation and the Amendment thereto has heretofore been filed with this Commission.

That applicant is fully qualified financially and otherwise to conduct the operations proposed herein.

That public convenience and necessity require the approval of the construction, installation, maintenance, and operation of the necessary gas transmission and distribution lines to serve the Town of Kit Carson, Cheyenne County, Colorado.

That public convenience and necessity require the exercise by applicant herein of the rights and privileges granted to applicant by the Board of Trustees of the Town of Kit Carson in and by Ordinance No. 24 of November 1, 1954.

That public convenience and necessity require that applicant be permitted to serve customers located contiguous to the Town of Kit Carson and along the lateral supplying gas from the transmission main of Colorado Interstate Gas Company to said Town.

That public health and safety require the installation by applicant of suitable equipment to odorize all gas in its distribution mains before sale to customers on its gas distribution system.

That at least fifteen (15) days before gas is sold to any of the prospective customers under the certificate to be granted herein, applicant should file with this Commission its proposed rate as set forth in Exhibit "D", and the rules and regulations under which it proposes to render gas service under its certificate.

That applicant should, within ninety (90) days after the completion of the construction of the facilities authorized

herein, file with the Commission the "as constructed" map of the system, together with the actual cost of construction, itemized in accordance with the Uniform System of Accounts for Gas Utilities, as prescribed by the Commission, setting forth therein any profit that applicant herein may have paid to Messrs. Schmitt and Crow, either as individuals or as a partnership, for the construction of the facilities proposed herein.

O R D E R

THE COMMISSION ORDERS:

That public convenience and necessity require the approval of the construction, installation, maintenance and operation of the necessary gas transmission and distribution lines to serve the Town of Kit Carson, Cheyenne County, Colorado, and the exercise by applicant herein of the rights and privileges granted to applicant by the Board of Trustees of the Town of Kit Carson, in and by Ordinance No. 24, of November 1, 1954, for gas service in said Town, and for the supplying of gas service in the area contiguous to said Town and along the lateral supplying gas from the transmission main of Colorado Interstate Gas Company, and this Order shall be taken, deemed and held to be a certificate of public convenience and necessity therefor.

That applicant shall install suitable equipment to odorize all gas in its distribution lines prior to sale to customers on its gas distribution system.

That at least fifteen (15) days before gas is sold to any customers under the certificate granted herein, applicant shall file with this Commission the rate as set forth in Exhibit "D" and the rules and regulations under which it proposes to render gas service under its certificate.

That applicant shall, within ninety (90) days after the completion of the construction of the facilities authorized herein,




file with the Commission the "as constructed" map of the system, together with the actual cost of construction, itemized in accordance with the Uniform System of Accounts for Gas Utilities as prescribed by the Commission, setting forth therein any profit that applicant herein may have paid to Messrs. Schmitt and Crow, either as individuals or as a partnership, for the construction of the facilities proposed herein.

That any motions taken under advisement at the hearing and not heretofore ruled on, are hereby denied.

That applicant shall commence construction of the gas transmission and distribution system authorized herein within six (6) months from the date hereof, and shall complete such construction of said facilities within one (1) year's time after the start of said construction or this certificate shall become null and void.

That this Order shall become effective as of the day and date hereof.

THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

  
  
  
Commissioners.

Dated at Denver, Colorado,  
this 23rd day of September, 1955.

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