

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 00A-428G

THE APPLICATION OF K N ENERGY, A DIVISION OF KINDER MORGAN, INC., FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO PROVIDE NATURAL GAS SERVICE IN A DESIGNATED AREA WITHIN THE NORTHERN FRONT RANGE.

**RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE
WILLIAM J. FRITZEL
GRANTING MOTION TO UNCONSOLIDATE
AND MOTION TO AMEND APPLICATION,
APPROVING AND ACCEPTING THE
STIPULATION AND AGREEMENT, AND
GRANTING A CERTIFICATE OF
PUBLIC CONVENIENCE AND NECESSITY**

Mailed Date: January 8, 2004

I. STATEMENT

1. On July 31, 2000, Kinder Morgan, Inc. (Kinder Morgan),¹ filed an application for a certificate of public convenience and necessity (CPCN) to authorize Kinder Morgan to provide natural gas delivery service in an area where it has historically served, comprising the towns of Firestone, Evanston, Frederick, and Dacono, Colorado (Tri-Town Area), and the Wellington, Colorado area. Kinder Morgan requested the exclusive right to provide natural gas delivery services, including sales, transportation, and distribution services to customers located within the Tri-Town and Wellington areas.

¹ This application was filed by Kinder Morgan, Inc., under the trade name "K N Energy, a Division of Kinder Morgan, Inc." The company changed the name under which it does business as a public utility in Colorado to "Kinder Morgan, Inc."

2. Kinder Morgan, Inc., also requested that its application be consolidated with Docket No. 99A-029G, the application of Public Service Company of Colorado (Public Service) for a CPCN to provide natural gas service in a designated area within the Northern Front Range extending approximately from an area south of the border between Douglas and Arapahoe Counties to north of the Ft. Collins area.

3. The Commission issued notice of the application on August 3, 2000.

4. On September 5, 2000, Public Service filed a Petition to Intervene in the Instant Docket.

5. By Interim Order No. R00-1206-I, the motion to consolidate the instant docket with Docket No. 99A-029G, and petition to intervene was granted.

6. On December 12, 2000, Staff of the Colorado Public Utilities Commission (“Staff”) intervened in the consolidated case.

7. On December 2, 2003, Kinder Morgan and Public Service filed a Stipulation and Agreement. The Stipulation and Agreement leaves this application uncontested.

8. On December 22, 2003, Kinder Morgan filed a motion to amend its application to modify the service territory as indicated in the Stipulation and Agreement filed between Kinder Morgan and Public Service.

9. On the same date, Kinder Morgan filed a motion to unconsolidate the instant application from Docket No. 99A-029G. Public Service supported the motion.

10. The motion of Kinder Morgan to amend its application will be granted.

11. Since this application is non-contested, the matter will be considered without a hearing pursuant to the Commission's modified procedure under the provisions of Section 40-6-109(5), C.R.S. and 4 Code of Colorado Regulations 723-1-24.

12. The motion of Kinder Morgan to unconsolidate this docket from Docket No. 99A-029G will be granted.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

13. Kinder Morgan is a public utility subject to the jurisdiction of the Commission.

14. Kinder Morgan is a corporation involved in the purchase, sales, and distribution of natural gas to its customers located in its certificated areas in Colorado.

15. By this application, Kinder Morgan requests a CPCN to provide natural gas delivery service in an area along the Northern Front Range of Colorado where it has traditionally provided natural gas service, namely the Tri-Town Area composed of the towns of Firestone, Evanston, Frederick, and Dacono, Colorado and the Wellington, Colorado area.

16. The service territory requested for Certification in the amended application is described in Appendices A and B attached to the Stipulation and Agreement. The parties agree that the service territory shown in Appendices A and B will be served exclusively by Kinder Morgan.

17. Kinder Morgan and Public Service state in the Stipulation and Agreement that Public Service is presently providing gas service to some customers within the proposed Kinder Morgan service area and that Kinder Morgan is currently providing gas service to some customers within the proposed service area of Public Service's amended application for a CPCN

in Docket No. 99A-029G. The parties agree that in order to ensure a smooth transition of service to customers, Public Service and Kinder Morgan shall continue serving existing customers and any new customers located within the newly defined certificated area of the other utility on a temporary basis during the transition as such time until these customers are connected to the natural gas distribution systems of the utility holding a CPCN for the service territory requested in the instant docket and Docket No. 99A-029G. Public Service and Kinder Morgan agree to transfer and convey to each other title and interest to the gas distribution facilities that are located in the certificated area of the other utility that are used to serve existing or new customers. The consideration to be paid by the transferring utility is defined and specified in the Stipulation and Agreement.

18. The parties agree that in the case of existing or future boundaries of a municipality crossing the certificated area boundaries defined in the Stipulation and Agreement, the certificated area boundaries will be given effect consistent with the Stipulation and Agreement. Each utility shall take action to obtain, maintain, or amend its franchise agreement with the municipality in order to authorize the utility to provide service within the municipal boundaries that fall within the certificated area.

19. It is found and concluded that the Stipulation and Agreement between Kinder Morgan and Public Service is just and in the public interest. The Stipulation and Agreement should be approved.

20. It is also found that it is in the public interest to grant a Certificate of Public Convenience and Necessity to Kinder Morgan in the geographical boundaries described in Appendices A and B of the Stipulation and Agreement.

21. Pursuant to § 40-6-109(2), C.R.S., it is recommended that the Commission enter the following order.

III. ORDER

A. The Commission Orders That:

1. The motion of Kinder Morgan, Inc., to amend its application is granted.
2. The motion of Kinder Morgan, Inc., to unconsolidate the instant docket from Docket No. 99A-029G, the application of Public Service Company of Colorado is granted.
3. The Stipulation and Agreement filed by Kinder Morgan, Inc., and Public Service Company of Colorado on December 2, 2003, attached to and made a part of this recommended decision is accepted and approved.
4. Kinder Morgan, Inc., is issued a Certificate of Public Convenience and Necessity to provide natural gas delivery service in the service territories described in Appendices A and B attached to the Stipulation and Agreement between Kinder Morgan, Inc., and Public Service Company of Colorado.
5. This Recommended Decision shall be effective on the day it becomes the Decision of the Commission, if that is the case, and is entered as of the date above.
6. As provided by § 40-6-109, C.R.S., copies of this Recommended Decision shall be served upon the parties, who may file exceptions to it.
 - a) If no exceptions are filed within 20 days after service or within any extended period of time authorized, or unless the decision is stayed by the Commission upon its own

motion, the recommended decision shall become the decision of the Commission and subject to the provisions of § 40-6-114, C.R.S.

b) If a party seeks to amend, modify, annul, or reverse basic findings of fact in its exceptions, that party must request and pay for a transcript to be filed, or the parties may stipulate to portions of the transcript according to the procedure stated in § 40-6-113, C.R.S. If no transcript or stipulation is filed, the Commission is bound by the facts set out by the administrative law judge and the parties cannot challenge these facts. This will limit what the Commission can review if exceptions are filed.

7. If exceptions to this Decision are filed, they shall not exceed 30 pages in length, unless the Commission for good cause shown permits this limit to be exceeded.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Administrative Law Judge