

Decision No. C21-0152-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 21A-0096E

IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR COLORADO'S POWER PATHWAY 345 KV TRANSMISSION PROJECT AND ASSOCIATED FINDINGS REGARDING NOISE AND MAGNETIC FIELD REASONABLENESS.

**INTERIM COMMISSION DECISION ESTABLISHING
NOTICE AND INTERVENTION PERIOD AND DELAYING
DETERMINATION OF COMPLETENESS**

Mailed Date: March 15, 2021
Adopted Date: March 10, 2021

TO THE PARTIES IN THIS MATTER AND ALL INTERESTED PERSONS, FIRMS,
OR CORPORATIONS:

I. BY THE COMMISSION

A. Statement

1. This Decision establishes an extended notice and intervention period for the Verified Application for a Certificate of Public Convenience and Necessity (CPCN) for Colorado's Power Pathway 345 kV Transmission Project and Associated Findings Regarding Noise and Magnetic Field Reasonableness (Application) filed on March 2, 2021 by Public Service Company of Colorado (Public Service or the Company). Requests for intervention, including from Staff of the Colorado Public Utilities Commission (Staff), must be filed by **May 10, 2021**.

2. Additionally, this Decision holds in abeyance a determination of the completeness of the Application. The Commission shall issue a determination on the completeness of the Application in a future decision.

B. Discussion

3. On March 2, 2021, Public Service filed its Application requesting that the Commission: (1) issue a CPCN for construction of Colorado's Power Pathway 345 kV Transmission Project (Pathway Project); (2) find that the Pathway Project is reasonable and in the public interest, supported by the Company's cost estimate for the project; and (3) find that the associated noise and magnetic field levels that the Company estimates will result from the Pathway Project are reasonable and require no further mitigation or prudent avoidance measures.

4. Public Service also proposes that the Commission consider issuing a CPCN for the May Valley-Longhorn Extension. If the Commission decides a CPCN should be granted for the May Valley-Longhorn Extension, Public Service requests the Commission find the extension project is reasonable and in the public interest, supported by the Company's cost estimate for the extension project, and that the associated magnetic field and noise levels are reasonable and require no further mitigation or prudent avoidance measures.

5. The Pathway Project consists of approximately 560 miles of 345 kV, double-circuit transmission lines with terminations at four existing substations and three new substations. Public Service explains that the Pathway Project will connect the Front Range to areas of northeastern, eastern, and southeastern Colorado. Specifically, Public Service proposes that the northern terminus of the project will be at the existing Fort St. Vrain Substation in western Weld County; that the project will extend east to a new substation near the existing Pawnee Substation; then east/southeast to a new substation south of the City of Burlington; then south to a new substation northeast of the City of Lamar; then west to the planned Tundra Substation near the Comanche Generating Station; and then north to its terminus at the existing Harvest Mile substation located

in Arapahoe County. The Pathway Project also involves expansion of the planned Tundra Substation and construction of three new substations.

6. The May Valley-Longhorn Extension consists of approximately 90 miles of 345 kV double circuit transmission line from a new substation to be constructed at the southeastern corner of the Pathway Project near Lamar, Colorado, south to a new substation near Vilas, Colorado.

7. In its Application, Public Service explains that the Pathway Project is required to provide a transmission “backbone” to carry electricity generated by wind and solar energy generation projects that the Company expects to bid into the solicitation it will issue in conjunction with its forthcoming Clean Energy Plan. Public Service provides cost estimates of approximately \$1.7 billion for the Pathway Project and approximately \$250 million for the May Valley-Longhorn Extension.¹ Public Service states that it has built risk reserves into these cost estimates, and therefore it does not include a contingency in its Application.

8. Public Service states in its Application that it may develop the Pathway Project with other utilities. It explains it is currently in negotiations with Black Hills Colorado Electric, LLC (Black Hills), Tri-State Generation and Transmission Association, Inc. (Tri-State), Platte River Power Authority, and Colorado Springs Utilities to discuss details of a partnership, including ownership interests and construction responsibilities. Because Tri-State and Black Hills are also subject to Commission regulation, Public Service represents that they each will file respective CPCN applications within 45 days of the filing of Public Service’s application (*i.e.*, by April 16, 2021) if a partnership comes to fruition. Public Service states that its Application addresses the common elements that relate to all portions of the Pathway Project, including the overall Pathway

¹ Application, p. 14.

Project purpose and need, the alternatives considered, the preferred alternative, the engineering and design information, and the Pathway Project schedule and costs. Any forthcoming applications filed by Tri-State or Black Hills will discuss issues specific to those utilities, including how the Pathway Project meets those utilities' needs and any additional facilities those utilities propose to construct in connection with the Pathway Project.

9. To facilitate the Commission's adjudication of this Proceeding on a 250-day statutory timeline pursuant to § 40-6-109.5, C.R.S., while simultaneously allowing additional time for the potential filing of CPCN applications from other utilities, Public Service requests that the Commission notice the Application as soon as possible and set a 30-day notice and intervention period. Additionally, it requests that the Commission not deem the Application complete until after either: (1) subsequent CPCN applications are filed by participating Commission-regulated utilities; or (2) Public Service files a notice with the Commission that the partnership will not move forward with the Pathway Project.

10. Public Service states that subsequent CPCN applications filed by Commission-regulated utilities would request a shortened notice and intervention period of ten days, and that the utilities would request consolidation of the CPCN proceedings, with all intervenors granted intervention in this Proceeding also granted status as intervenors in the consolidated proceeding.

C. Findings and Conclusions

11. We find good cause to establish a 60-day notice and intervention period for this Proceeding. This extended period will encompass the potential filing of related CPCN applications by partner utilities. The Commission may address shortened notice and intervention periods for

those other application filings, as well as any requests for consolidation, by future order in the appropriate proceeding(s).

12. Further, we agree with the Company's proposal to delay the determination of the completeness of the Application filed in the instant Proceeding until after any related CPCN applications are filed on or before April 16, 2021. We therefore refrain from making any findings regarding the Application's completeness at this time and put into abeyance a determination of completeness pursuant to Rule 1303(c) of the Commission's Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-1. Procedures to apply for the later determination of the Application's completeness will be established by separate future order.

13. The Application is available for public inspection by accessing the Commission's E-Filing system at puc.colorado.gov. **This Decision is the Commission's notice that the Application for a Certificate of Public Convenience and Necessity for Colorado's Power Pathway 345 kV Transmission Project and Associated Findings Regarding Noise and Magnetic Field Reasonableness has been filed.**

14. Commission notice period for the Application shall extend from the mailed date of this Decision through **May 10, 2021**. The intervention period will run concurrent with the notice period. Interventions, including those filed by Commission Staff, shall be due by **May 10, 2021**.

II. ORDER

A. It Is Ordered That:

1. Service of this Decision will provide notice of the Application to all interested persons, firms, and corporations.

2. The request of Public Service Company of Colorado (Public Service) for a 30-day notice and intervention period for the Application for a Certificate of Public Convenience and

Necessity for Colorado's Power Pathway 345 kV Transmission Project and Associated Findings Regarding Noise and Magnetic Field Reasonableness (Application) filed on March 2, 2021 is denied, consistent with the discussion above.

3. The notice and intervention period shall expire at **5:00 p.m. on May 10, 2021**.

4. Any person desiring to intervene or participate as a party in this proceeding, including Staff of the Colorado Public Utilities Commission, shall file a petition for leave to intervene, or under the Commission's Rules of Practice and Procedure, file other appropriate pleadings to become a party, no later than **May 10, 2021**. Alternatively, persons who do not wish to intervene or become a party, but desire to file comments, may send written comments through the Commission's comment portal at <https://puc.colorado.gov/puccomments>. All persons who file an objection, notice of intervention as of right, motion to permissively intervene, or any other appropriate pleading shall do so in accordance with the instructions set forth in the Commission's Rules of Practice and Procedure and this Decision.

5. The Commission may consider the Application without a hearing if no notice of intervention as of right or motion to permissively intervene is timely filed, or no notice of intervention as of right or motion to permissively intervene requests a hearing or contests or opposes the Application.

6. If a hearing is required in this matter, the Commission will notify the parties of the hearing date, time, and location. Public Service must appear at the hearing if one is set, and present evidence in support of its Application. Other parties may appear and present evidence in support of their position.

7. If a party does not meet the requirements of this Decision, the Commission may dismiss or strike the Application or intervention upon motion filed by any other party, or upon the Commission's own motion, unless good cause for failure to meet the requirements is shown.

8. The determination of the completeness of the Application pursuant to Rule 1303(c) of the Commission's Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-1, is put into abeyance. Procedures to apply for the later determination of the Application's completeness will be established by separate future decision.

9. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
March 10, 2021.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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JOHN GAVAN

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Commissioners