

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 CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY FOR COLORADO'S POWER PATHWAY 345 KV TRANSMISSION PROJECT AND ASSOCIATED FINDINGS REGARDING NOISE AND MAGNETIC FIELD REASONABLENESS.

**DECISION REGARDING THE SCOPE OF WORK FOR
THE INDEPENDENT ENGINEER**

Mailed Date: November 21, 2022

Adopted Date: November 16, 2022

TO ALL INTERESTED PERSONS, FIRMS, OR CORPORATIONS:

I. BY THE COMMISSION

A. Statement

1. On June 2, 2022, by Decision No. C22-0270 in this Proceeding (CPP Proceeding), the Commission granted Public Service Company of Colorado (Public Service or the Company) a Certificate of Public Convenience and Necessity for Colorado's Power Pathway 345 kilovolt (kV) Transmission Project. As a part of that Decision, the Commission directed Public Service to engage an Independent Engineer (IE) to provide oversight of the Company's management and procurement practices on behalf of ratepayers. The Commission also directed the Company to collaborate with the Commission's Trial Staff (Staff) to develop and submit a scope of work (SOW) for the IE.¹ Public Service and Staff jointly filed the required SOW on October 31, 2022.

¹ Decision No. C22-0270, ¶ 112 – 116.

By this Decision, we direct the Company to make certain modifications to the SOW that provide greater clarity regarding the content and filing of reports, establish the IE's ability to communicate with all parties to this Proceeding, and establish the IE's ability to have certain ad hoc letters or reports submitted into the record of this Proceeding.

B. Discussion

2. At the hearing in this Proceeding, Chairman Blank discussed with several parties the advisability of engaging an "owner's engineer" or "independent engineer" (IE) to monitor the progress (timing and expenditures) of the CPP as it is under construction. The witnesses he questioned on this subject (Ms. Brooke Trammel, Mr. Gene Camp and Mr. James Dauphinais) expressed either no opposition or considerable support for the concept. In their joint SOP, Public Service and Staff recommended that if the Commission were to order the Company to engage an IE, that they (*i.e.*, Public Service and Staff) should collaborate to develop the SOW for the engagement. The Commission agreed with this recommendation, and in Decision No. C22-0270, it directed the Company to have the IE in place no later than December 31, 2022. It also directed the Company and Staff to file, within 90 days an update presenting the agreed-upon SOW, estimated cost, and timeline for hiring the IE.

3. In its Decision addressing applications for rehearing, reargument or reconsideration (the RRR Decision), the Commission further clarified that it intended to carefully scrutinize the proposed SOW to verify that it ensures the IE's independent status and directed Staff and Public Service to submit an update if there were any material changes to the SOW during CPP construction.

4. The SOW that Staff and the Company jointly submitted on October 31, 2022, requires that Public Service make available to the IE its monthly cost analysis

reports, procurement strategies, cost and construction dashboards, and the Company's analysis of carbon core conductors for Power Pathway Segments 1, 4, and 5 (as directed in paragraphs 119 through 127 of Decision No. C22-0270). The SOW also specifies that the Company has the responsibility to review IE invoices and reports and to pay the IE's invoices after such invoices are approved by Staff.

5. The SOW specifies numerous IE responsibilities, including that the IE will attend the Company's project management status meetings on at least a monthly basis, that it has the responsibility of reviewing the Company's carbon core conductor analysis, issuing a report to the Commission on such, reviewing the Company's project management and costs, and providing quarterly reports to the Parties. The SOW also specifies that the IE can communicate directly with Staff and the Company, and that the Company will make its personnel available to address any questions the IE has about project achievements and costs.

6. The SOW assigns to Staff the responsibility for reviewing and approving the IE's invoices, reviewing the IE's quarterly reports, and notifying the Commission of concerns regarding significant changes to project plans, budget extensions, timely segment completion, and observations concerning project management reported by the IE.

7. On November 14, 2022, Mr. Larry Miloshevich, a *pro se* intervenor in this Proceeding filed comments on the proposed SOW. In his comments, Mr. Miloshevich made three recommendations. First, he recommended that the IE SOW be amended to include reference to specific paragraphs in Decision No. C22-0270 that describe the Commission's reasoning for ordering the cost-effectiveness analysis of carbon core conductors, the scope of the required analysis, and the direction that the IE's work would include review of the analysis. Second, Mr. Miloshevich recommended that the IE responsibilities section include a provision

explicitly granting the IE the right to communicate freely with all parties to the proceeding (*i.e.*, not limiting this to only Staff and Public Service). Finally, Mr. Miloshevich recommended that the SOW be amended to explicitly state that the IE should address the conflicting assessments of carbon core conductor in the record and the extent to which Public Service's analysis resolves those conflicts.

C. Findings and Conclusions

8. We find that the SOW as proposed provides appropriate independent review of the Company's CPP procurement and project management practices and greatly appreciate the Company and Staff working together to develop this SOW. At the same time, we believe that the requests discussed below may help to better inform the Commission and strengthen the IE's ability to do its job. First, we ask the Company to simultaneously file the monthly cost reports it provides to the IE into this Proceeding, requesting confidentiality, as necessary. Second, we ask the Company to file the IE's quarterly reports into this Proceeding within five days of receipt. Third, we request that the Company either modify the SOW or otherwise make clear to the IE that the IE retains the right to file interim letters or reports into this proceeding as it may deem necessary, alerting the Commission to project management issues it has previously raised with the Company that it believes are not being adequately addressed.

9. Regarding Mr. Miloshevich's first recommendation, the Commission reminds the Company and Staff of paragraphs 121 through 127 of Decision No. C22-0270 to the Regulatory Requirements section that may provide relevant and helpful context to activities to be conducted by the IE, but do not seek to amend the SOW on this issue.

10. With regard to Mr. Miloshevich's recommendation that the SOW contain an explicit statement that the IE has the right to communicate with all parties to the proceeding, the

Commission is unaware of any limitations to IE communications with any person, party to this Proceeding or otherwise. For example, the IE may wish to interview vendors of equipment the Company has specified for the CPP or vendors of carbon core conductors. We therefore see no need to require the SOW modification Mr. Miloshevich suggests.

11. Finally, we would like to see the IE's report, to the extent practicable, help to resolve some of the conflicting information currently in the record of this Proceeding. Accordingly, while we will not modify the SOW on these grounds, we hereby request that the Company and Staff work with the IE to find ways to help address and clarify the conflicting assessments of carbon core conductors in the record.

II. ORDER

A. The Commission Orders That:

1. The Company and Staff move forward consistent with the discussion above.

2. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
November 16, 2022.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ERIC BLANK

JOHN GAVAN

MEGAN M. GILMAN

Commissioners