

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14A-0287E

IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO (A) FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR THE PAWNEE TO DANIELS PARK 345 KV TRANSMISSION PROJECT, AND (B) FOR SPECIFIC FINDINGS WITH RESPECT TO EMF AND NOISE.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
G. HARRIS ADAMS
REGARDING REPRESENTATION**

Mailed Date: May 23, 2014

I. STATEMENT

1. Public Service Company of Colorado filed the above-captioned proceeding with the Colorado Public Utilities Commission on March 28, 2014.

2. Public notice of the Application was provided on April 2, 2014.

3. On April 24, 2014, a pleading was filed by the Rowley Downs Homeowners Association of Parker, Colorado (Rowley Downs HOA) requesting permission to intervene in this proceeding. The pleading was signed by Michael Roueche, President.

A. Representation

4. Rowley Downs HOA is not represented by counsel in this matter.

5. Rule 1201(a), 4 *Code of Colorado Regulations* (CCR) 723-1 requires a party in a proceeding before the Commission to be represented by an attorney authorized to practice law in the State of Colorado, except that, pursuant to Rule 1201(b), 4 CCR 723-1, an individual may appear without an attorney: (a) to represent her/his own interests; or (b) to represent the interests

of a closely-held entity, as provided in § 13-1-127, C.R.S. The Commission has emphasized that this requirement is mandatory and has found, if a party does not meet the criteria of this Rule, that a filing made by non-attorneys on behalf of that party is void and of no legal effect and that a non-attorney may not represent a party in Commission adjudicative proceedings. *See, e.g.*, Decisions No. C05-1018, Proceeding No. 04A-524W issued August 30, 2005; No. C04-1119, Proceeding No. 04G-101CP issued September 28, 2004; and No. C04-0884, Proceeding No. 04G-101CP issued August 2, 2004.

6. This is an adjudicative proceeding before the Commission.

7. To proceed in this matter without an attorney, Rowley Downs HOA must meet the criteria of Rule 1201(b)(II), 4 CCR 723-1.

8. Rowley Downs HOA has the burden to prove that it is entitled to proceed in this case without an attorney. To meet that burden of proof, a party must do the following: First, a party must establish that it is a closely-held entity. This means that a party must establish that it has “no more than three owners.” Section 13-1-127(1)(a), C.R.S. Second, a party must demonstrate that it meets the requirements of § 13-1-127(2), C.R.S. That statute provides that an officer¹ may represent a closely-held entity before an administrative agency if both of the following conditions are met: (a) the amount in controversy does not exceed \$15,000; and (b) the officer provides the administrative agency with evidence, satisfactory to the agency, of the authority of the officer to represent the closely-held entity.²

¹ Section 13-1-127(1)(i), C.R.S., defines “officer” as “a person generally or specifically authorized by an entity to take any action contemplated by” § 13-1-127, C.R.S.

² As pertinent here, § 13-1-127(2.3), C.R.S., states that an officer of a corporation “shall be presumed to have the authority to appear on behalf of the closely held entity upon providing evidence of the person’s holding the specified office or status[.]”

9. Rowley Downs HOA will be ordered either to obtain counsel or to show cause why Rule 4 CCR 723-1-1201 does not require it to be represented in this matter by an attorney at law currently in good standing before the Supreme Court of the State of Colorado.

10. If Rowley Downs HOA elects to obtain counsel, then its counsel must enter an appearance in this matter on or before **close of business on June 2, 2014**.

11. If Rowley Downs HOA elects to show cause, it **must make, on or before June 2, 2014, a verified (*i.e.*, sworn) filing** that: (a) establishes that a party is a closely-held entity (that is, has no more than three owners); (b) states that the amount in controversy in this matter does not exceed \$15,000 and explains the basis for that statement; (c) identifies the individual who will represent a party in this matter; (d) establishes that the identified individual is an officer of a party; and (e) if the identified individual is not an officer of a party, has appended to it a resolution from a party's Board of Directors that specifically authorizes the identified individual to represent a party in this matter.

12. Any party wishing to proceed without an attorney in this matter must make the filing described in ¶ 11.

13. **Rowley Downs HOA is advised that failure to make the filing described in ¶ 11 above or file its counsel's entry of appearance, by June 2, 2014, will result in dismissal of its intervention without prejudice.**

II. ORDER

A. It Is Ordered That:

1. Homeowners Association of Parker, Colorado (Rowley Downs HOA) must choose either to obtain legal counsel or to make a show cause filing that comports with Paragraph No. 11 above.

2. If Rowley Downs HOA elects to obtain legal counsel, then legal counsel shall enter an appearance in this proceeding on or before June 2, 2014.

3. If Rowley Downs HOA elects to show cause, then on or before June 2, 2014, it shall show cause why it is not required to be represented by legal counsel. The show cause filing shall meet the requirements set out in Paragraph Nos. 8 and 11, above.

4. This Decision shall be effective immediately.

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

G. HARRIS ADAMS

Administrative Law Judge