

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14A-1002E

IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPAN OF COLORADO (A) FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR THE THORNTON SUBSTATION, AND (B) FOR SPECIFIC FINDINGS WITH RESPECT TO MAGNETIC FIELDS AND NOISE.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
PAUL C. GOMEZ
ON INTERVENTIONS AND
SETTING PRE-HEARING CONFERENCE**

Mailed Date: November 18, 2014

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I. STATEMENT

A. Background

1. On October 3, 2014, Public Service Company of Colorado (Public Service or Company) filed an Application for a Certificate of Public Convenience and Necessity (CPCN) for the Thornton Substation, and for Specific Findings with Respect to Magnetic Fields and Noise (Application). Public Service seeks to construct the Thornton Substation Project (Project)

which involves the installation of a new substation in an area in which Public Service believes is the preferred siting area in the City of Thornton, Colorado (Thornton).

2. According to Public Service, the Project will involve the installation of one 50 MVA transformer with five new distribution feeders, and the construction of associated transmission facilities. Public Service represents that the Project will have the capability for expansion of up to three total 50 MVA transformers to serve future load growth. The Company further represents that the Project will satisfy a current need to resolve low voltages and reliability issues which put the Thornton area at risk for extended outages during peak loading conditions due to high customer demands in the Thornton area.

3. The Project is intended to improve reliability in the area by providing an additional source of power to customers in the area, as well as mitigate potential overload conditions on three existing substations by providing additional capacity, according to Public Service.

4. In addition to requesting approval for the CPCN, Public Service also seeks approval of certain noise and magnetic field levels the Company estimates will result from operating the Project.

5. Concomitant with the Application, Public Service filed the direct testimony and exhibits of Kelly Bloch, Chad Nickell, and John Lupo.

6. On October 6, 2014, the Commission issued notice of the Application to all interested parties. The notice set a 30-day period in which to file a petition to intervene in the Application proceeding, or no later than November 5, 2014.

7. On November 3, 2014, Thornton filed its Entry of Appearance and Motion to Intervene. Because the Project involves construction of a substation in a heavily developed

location within the city, and includes facilities to be located on public property and with Thornton's rights of way, Thornton argues that it and its residents have a clear and substantial interest in this proceeding which will be affected by a grant of the Application. Thornton also takes the position that it has substantial pecuniary or tangible interests in the outcome of this proceeding and that its interests cannot be adequately represented by any other party.

8. On November 5, 2014, the Office of Consumer Counsel (OCC) filed its Notice of Intervention of Right, Entry of Appearance and Request for Hearing. Some of the issues the OCC proposes to raise in this matter include: whether Public Service has sufficiently justified the need for the substation; whether less expensive alternatives have been considered; whether the expected cost for the substation of \$32.7 million is just and reasonable; how construction of this substation will impact Public Service's need for future substations; whether Public Service's original plan to construct the Brantner substation with above ground transmission facilities at a lesser cost should be pursued; and questions regarding the detailed transmission studies Public Service performed.

9. On November 12, 2014, the Commission deemed the Application complete and referred the matter to an Administrative Law Judge (ALJ) for disposition. The matter was subsequently assigned to the undersigned ALJ.

B. Interventions

10. Rule 4 *Code of Colorado Regulations* 723-1-1401(a) of the Commission's Rules of Practice and Procedure, provides that "any person may file a notice of intervention as of right or a motion to intervene by permission within 30 days of notice of any administrative or adjudicatory proceeding." Rule 1401(b) requires that a notice of intervention as of right, "shall state the basis for the claimed legally protected right that may be affected by the proceeding."

11. Pursuant to Rule 1401(c), a motion to permissively intervene shall:

state the specific grounds relied upon for intervention; the claim or defense within the scope of the Commission's jurisdiction on which the requested intervention is based, including the specific interest that justifies intervention; and why the filer is positioned to represent that interest in a manner that will advance the just resolution of the proceeding.

12. Rule 1401(c) further requires that:

The motion must demonstrate that the subject proceeding may substantially affect the pecuniary or tangible interests of the movant (or those it may represent) and that the movant's interests would not otherwise be adequately represented.

13. As relevant to the Application sought by Public Service, Thornton demonstrates that the Application sought substantially affects the tangible and pecuniary interests of Thornton and that Thornton's interests will not be adequately represented by any other party. As a result, it is found that Thornton has legally protected rights that may be affected by a grant of the Application. The intervention was timely filed. Thornton has shown good cause to grant Thornton's request to intervene in this proceeding.

14. The intervention as a right of the OCC is noted.

15. The intervention period in this matter is closed. Intervenors in this proceeding are Thornton and the OCC.

C. Procedural Matters

16. The ALJ finds it necessary to set a pre-hearing conference in this matter to discuss substantive, procedural and administrative matters, as well as any other issues that may arise. At the pre-hearing conference, the parties should be prepared to discuss and set procedural dates, including dates for filing answer, rebuttal, and cross/answer testimony; a discovery schedule; a date for the filing of a Stipulation and Settlement Agreement (if any); dates for an

evidentiary hearing; as well as a deadline for the filing of Statements of Position. The parties should be prepared to discuss any other relevant matters related to this proceeding.

17. A pre-hearing conference will be scheduled for **Wednesday, December 3, 2014.**

II. ORDER

A. It is Ordered That:

1. A pre-hearing conference in this matter is scheduled as follows:

DATE: December 3, 2014

TIME: 10:30 a.m.

PLACE: Hearing Room
Colorado Public Utilities Commission
1560 Broadway, Suite 250
Denver, Colorado

2. The Motion to Intervene of the City of Thornton is granted.
3. The Intervention of Right of the Colorado Office of Consumer Counsel is noted.
4. At the pre-hearing conference, the parties shall be prepared to discuss the matters

set out above.

5. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

PAUL C. GOMEZ

Administrative Law Judge

ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Doug Dean".

Doug Dean,
Director