

(Decision No. C86-659)

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

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IN THE MATTER OF THE APPLICATION OF )	APPLICATION NO. 37478
PUBLIC SERVICE COMPANY OF COLORADO )	
FOR AN ORDER GRANTING TO IT A )	ORDER OF THE COMMISSION
CERTIFICATE OF PUBLIC CONVENIENCE )	GRANTING A CERTIFICATE OF
AND NECESSITY TO EXERCISE FRANCHISE )	PUBLIC CONVENIENCE AND
RIGHTS IN THE CITY OF BRIGHTON, )	NECESSITY TO EXERCISE
ADAMS COUNTY, COLORADO. )	FRANCHISE RIGHTS

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May 28, 1986  
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STATEMENT

BY THE COMMISSION:

On January 30, 1986, Public Service Company of Colorado (Public Service) filed Application No. 37478 for an order granting a certificate of public convenience and necessity to exercise franchise rights in the City of Brighton, Adams County, Colorado.

Notice of the application was given by the Commission on February 6, 1986, in accordance with § 40-6-108(2), C.R.S. Newspaper notice was also given by Public Service on January 29, 1986 by notice in The Brighton Blade.

On February 6, 1986, Union Rural Electric Association (Union) filed a protest to Application No. 37478.

On March 17, 1986, the Commission gave notice setting Application No. 37478 for hearing on April 21, 1986 at the hearing offices of the Commission.

On March 17, 1986, Public Service filed a motion for an extension of time through and including March 17, 1986 to file a response to Union's protest. On March 21, 1986, Public Service filed a motion to dismiss the protest filed by Union.

On April 1, 1986, the Commission entered Decision No. C86-392 granting the motion for extension of time filed by Public Service on March 17, 1986, and granting it an extension of time until March 21, 1986 to file a response to the protest filed by Union on February 6, 1986.

The Commission also ordered that the response time to the motion to dismiss the protest would be extended to 10 days after the mailing of Decision No. C86-392.

By letter dated April 4, 1986, and filed on April 8, 1986, counsel for Union filed a response to the motion to dismiss the protest.

On April 18, 1986, Public Service and Union filed a Stipulation and Agreement. The Stipulation and Agreement refers to a related proceeding, Application No. 37131, and states as follows:

Application No. 37131 relates to an agreement between Public Service Company of Colorado and Union Rural Electric Association, Inc. dated the 20th day of April 1964 (Agreement), and proceedings before the Commission in 1964 (Application Nos. 24027 and 24028) culminating in a decision of the Commission approving the terms thereof (Decision No. 63322 issued the 20th day of July 1964).

If Union is successful in obtaining the relief it seeks in Application No. 37131, it may wish to pursue the issue of whether it may continue to serve territories certificated to it by the Commission even though the territories are annexed by the City of Brighton which is served by Public Service Company under the franchise pursuant to the certificate issued in the instant Application No. 37478.

On May 20, 1986, Hearings Examiner Ken F. Kirkpatrick entered Decision No. R86-605-I, reciting the pertinent parts of the Stipulation and Agreement made on April 18, 1986 between Public Service and Union. The Examiner also made the observation that Public Service and Union sought to assure that Application No. 37478 did not dispose of the issue in Application No. 37131. Decision No. R86-605-I stated that Application No. 37478 is not dispositive of that issue and found that the Stipulation and Agreement should be accepted and the protest of Union withdrawn. That decision also found that Application No. 37478 was now uncontested and should be decided by the Commission pursuant to Rule 17 of the Commission's Rules and Practice and Procedure.

#### FINDINGS OF FACT

1. Applicant is an operating public utility subject to the jurisdiction of this Commission and is engaged, inter alia, in the generation, transmission, purchase, distribution, and sale of electricity and the purchase, distribution, and sale of natural gas in various areas in the State of Colorado.

2. Applicant is a Colorado corporation. A certified copy of Applicant's Articles of Incorporation, with all amendments to the Articles, is on file with the Commission.

3. Applicant requests the Commission to issue an order granting it a certificate of public convenience and necessity to exercise franchise rights in the City of Brighton (City), Adams County, Colorado. Franchise Ordinance No. 1196 was passed and adopted by the City Council of Brighton on November 19, 1985.

4. Applicant has been providing gas and electric service to the City and its inhabitants pursuant to the terms and conditions of a gas and electric franchise granted by Ordinance No. 435 adopted October 11, 1960. Authority to operate under the franchise was granted by the Commission in Decision No. 55816 issued February 7, 1961 in Application No. 18258.

5. Applicant obtains natural gas for service under the franchise from Colorado Interstate Gas Company, an interstate natural gas company under the jurisdiction of the Federal Energy Regulatory Commission and from Western Gas Supply Company, an intrastate natural gas pipeline company under the jurisdiction of The Public Utilities Commission of the State of Colorado. Applicant obtains electricity for service under the franchise in Brighton, from its own electric generation facilities, and from various power purchase agreements, and transmits it to the City through its interconnected electric system in the Platte Valley Division. Applicant's present gas and electric distribution systems in the City will be used in rendering service under the franchise.

6. There is no other public utility authorized to serve electricity and gaseous fuel in the City.

7. In further support of this Application and in accordance with the Commission's Rules of Practice and Procedure, the following exhibits were submitted with the application:

Exhibit 1 is a copy of the Franchise Ordinance.

Exhibit 2 is a copy of the acceptance by the Applicant of the Franchise Ordinance.

Exhibit 3 is the Balance Sheet of Applicant as of September 30, 1985.

Exhibit 4 are the Statements of Income and Retained Earnings of Applicant for the twelve months ended September 30, 1985.

Exhibit 5 is a copy of the "Notice of Application to Exercise Rights and Privileges Under a Franchise by Public Service Company of Colorado, 550 Fifteenth Street, Denver, Colorado 80202," to be published contemporaneously herewith in The Brighton Blade, in accordance with Rule 18-II.A. of the Commission's Rules of Practice and Procedure.

Exhibit 6 is a copy of the Affidavit of Publication from The Brighton Blade showing proof of publication after adoption, in compliance with Appendix H, Section IV.A.8. of the Commission's Rules of Practice and Procedure.

8. Because Applicant presently provides gas and electric service within the City of Brighton, the information required by the applicable portions of Appendix H, Section IV.A.2 and 3 of the Commission's Rules of Practice and Procedure has been omitted.

9. Applicant's tariffs under Colorado P.U.C. No. 5-Gas and Colorado P.U.C. No. 6-Electric, Schedules of Rates for Natural Gas and Electric Service Available in the Entire Territory Served by Public Service Company of Colorado, currently on file with this Commission will be used for service under this Application.

10. Applicant has the financial ability and is qualified and competent to conduct the utility operations sought in this Application.

11. The public convenience and necessity will be served and the public interest requires the exercise of the franchise rights sought.

THEREFORE THE COMMISSION ORDERS THAT:

1. Public Service Company of Colorado is granted a certificate of public convenience and necessity to exercise franchise rights in the City of Brighton, Adams County, State of Colorado, in accordance with Ordinance No. 1196 passed and adopted by the City Council of the City of Brighton on November 19, 1985, and attached to the application as Exhibit 1.

2. Public Service Company of Colorado shall surcharge and separately indicate on the bills of its customers residing in the City of Brighton the franchise charges authorized by Ordering paragraph 1 of this Decision.

This Order is effective forthwith.

DONE IN OPEN MEETING the 28th day of May 1986.

THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

Ronald L. Lehn

Edythe S. Miller

Arvid Schmitt  
Commissioners