

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04A-027G

IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO FOR AUTHORIZATION UNDER § 40-3-104.3, C.R.S. TO PROVIDE FIRM GAS TRANSPORTATION SERVICE TO THE REGENTS OF THE UNIVERSITY OF COLORADO HEALTH SCIENCES CENTER.

ORDER GRANTING MOTION FOR PROTECTIVE ORDER

Mailed Date: February 6, 2004
Adopted Date: January 28, 2004

I. BY THE COMMISSION

A. Statements

1. On January 15, 2004, Applicant, Public Service Company of Colorado (Public Service or the Company) filed this application, pursuant to the provisions of § 40-3-104.3, C.R.S., and 4 *Code of Colorado Regulations* (CCR) 723-10, for authorization to provide firm gas transportation services without reference to its tariffs to the Regents of the University of Colorado (the University) at the University's Health Sciences Center, Aurora campus (UCHSC). Notice of the Application was given to all interested persons, firms, and corporations by the Commission. In accordance with § 40-3-104.3(1)(b), C.R.S., interested persons have to file requests for intervention within five days of the date of the notice.

2. No protests or motions to intervene in opposition have been filed in connection with this Application for authority to provide firm gas transportation services without reference to the Company's tariffs, and it is non-contested and unopposed. Accordingly, the Application may be determined without hearing, in accordance with § 40-6-109(5), C.R.S., § 40-3-104.3(1)(b), C.R.S., and 4 CCR 723-1-24.

3. Contemporaneous with the filing of this Application, Applicant filed a Motion for Protective Order, with extraordinary protection, that certain information filed under seal be provided only to the Commission, Commission Staff (Staff), and the Colorado Office of Consumer Counsel.

B. Findings of Fact

4. Applicant is an operating public utility subject to the jurisdiction of this Commission and is engaged, *inter alia*, in the purchase, transmission, distribution, transportation, and resale of natural gas in various certificated areas within the State of Colorado.

5. The proposed firm transportation contract affects only UCHSC and the authority to provide such services without reference to the Company's tariffs is made pursuant to § 40-3-104.3, C.R.S., and 4 CCR 723-10.

6. In support of the Application, Public Service filed Confidential Attachments 1 and 2, which are the confidential information containing the actual contract rates, terms, and conditions to be offered to UCHSC. Public Service claims this information is not available to the public and is competitively sensitive. Public Service also filed public and confidential sworn testimony and exhibits of Mr. Michael A. Miller. Public Service claims Exhibit Nos. MAM-1 and MAM-4 are confidential in nature, are also not available to the public, and are competitively sensitive.

7. By Decision No. C04-0106, the Commission granted Public Service's Motion for Protective Order with modification: Attachment 2 to the Application; Exhibit No. MAM-4; and page 4 (lines 6, 15, and 16), and page 5 (line 9) of Michael A. Miller's Direct Testimony shall be provided only to the Commission, Staff, and the Colorado Office of Consumer Counsel.

8. In order to approve the application, the Commission must find that the conditions prescribed in § 40-3-104.3(1)(a)(II), C.R.S., exist. Those conditions are:

- (A) The customer has the ability to provide its own service or has competitive alternatives available from other providers of the same or substitutable service, except from another public utility providing or proposing to provide the same type of service;
- (B) The customer will discontinue using the services of the public utility if the authorization is not granted;
- (C) Approval of the application will not adversely affect the remaining customers of the public utility as would the alternative;
- (D) The price of any such service provided pursuant to § 40-3-104.3(1)(a)(II) shall be justified and shall not be less than the marginal cost of the service to the public utility; and
- (E) The approval of the application is in the public interest.

9. UCHSC has the ability to construct its own gas pipeline facilities to interconnect with Colorado Interstate Gas Company's East Denver Meter Station, thus bypassing the Company. It is the Company's representation that UCHSC will discontinue taking firm gas transportation service from the Company if this Application is not granted. The proposed Firm Capacity Reservation Rate of the firm gas transportation services pursuant to § 40-3-104.3(1)(a)(II), C.R.S., was justified in the Company's analysis provided to Staff under audit, and the revenue from said firm gas transportation services is above the marginal cost.

10. The Company contemplates that there will not be any increase in rates or cost of service to other ratepayers as a result of Commission approval of this Application. The proposed Firm Gas Transportation Agreement results in savings to the University, more revenue to the Company, and has no adverse effect on other customers. Accordingly, the Commission finds that granting the application is consistent with the public interest.

II. ORDER**A. The Commission Orders That:**

1. The application by Public Service Company of Colorado to provide firm gas transportation services to the Regents of the University of Colorado at the University's Health Sciences Center in Aurora, Colorado under the terms and conditions of a confidential Firm Gas Transportation Service Agreement is granted.

2. The 20-day period provided for in § 40-6-114-(1), C.R.S., within which to file an application for rehearing, reargument, or reconsideration begins on the first day following the effective date of this Decision.

3. This Order is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
January 28, 2004.**

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners