

Decision No. C04-0299

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04A-095FG

IN THE MATTER OF THE APPLICATION OF KINDER MORGAN, INC. FOR AN ORDER ISSUING A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AUTHORIZING KINDER MORGAN, INC. TO EXERCISE FRANCHISE RIGHTS WITHIN THE TOWNS OF RIDGEWAY AND OURAY, COLORADO IN CONFORMANCE WITH DECISION NO. R03-0212.

**DECISION GRANTING APPLICATION
TO EXERCISE FRANCHISE RIGHTS**

Mailed Date: March 24, 2004

Adopted Date: March 24, 2004

I. BY THE COMMISSION

A. Statement, Findings, and Conclusions

1. On October 10, 2003, Rocky Mountain Natural Gas Company (RMNG) and Kinder Morgan, Inc. (KMI or Company), filed a joint application (Docket No. 02A-548G) requesting Commission authorization to build and transfer certain pipeline facilities which, following completion, would provide certain residents in the western slope area of Colorado the opportunity to have natural gas utility services. As part of that application, KMI requested a preliminary order declaring that the Commission would issue to KMI a certificate of public convenience and necessity (CPCN) authorizing it to exercise franchise rights with the Towns of Ridgeway and Ouray. On January 30, 2003, KMI, RMNG, the Staff of the Commission, and the Office of Consumer Counsel entered into a Stipulation Agreement which, in summary, recommended that the proposed transactions be approved. On February 24, 2003, Administrative Law Judge Dale E. Isley issued Decision No. R03-0212 recommending approval of the Stipulation and Agreement. Specifically, paragraph 11 and ordering paragraph 5 of

Decision R03-0212 address the authorization of a preliminary order for a CPCN to exercise franchise agreements with the Towns of Ridgeway and Ouray with the declaration that KMI is to secure the required franchise agreements. The purpose of this application is to formally present the fully executed franchise agreements between KMI and the Town of Ridgeway and KMI and the Town of Ouray.

2. On March 4, 2004, KMI filed an application seeking a Commission order granting it a CPCN to exercise franchise rights in the Towns of Ridgeway and Ouray.

3. The Commission noticed the application on March 5, 2004 to all interested persons, firms, and corporations. Additionally, KMI caused a notice of application to be published in *The Denver Post* on March 8, 2004. No petition to intervene or notice of intervention has been filed, and thus the application is uncontested. Accordingly, the application will be determined without a formal hearing pursuant to § 40-6-109(5), C.R.S., and Rule 24 of the Commission's Rules of Practice and Procedure, 4 *Code of Colorado Regulations* 723-1.

4. KMI, a Kansas corporation, is a public utility under the provisions of the laws of the State of Colorado and is a natural gas company engaged in the purchase, transmission, and general resale of natural gas to industrial, commercial, and residential customers in various areas in the State of Colorado.

5. KMI requests that the Commission issue an order granting to it a CPCN to exercise franchise rights granted by the Town of Ridgeway. Pursuant to Ordinance No. 03.08, adopted July 9, 2003, the Town of Ridgeway granted KMI a 15-year franchise to provide natural gas service in the Town. Section 12 of the franchise agreement declares that the agreement is to remain in effect for a period of 15 years from the effective date. The Town of Ridgeway adopted

the agreement on July 9, 2003 and KMI accepted the agreement on October 15, 2003. Accordingly, the agreement would expire on October 15, 2018.

6. As consideration for the franchise rights granted, KMI is to pay to the Town of Ridgeway a sum computed as follows for all gas delivered within the Town: $\$0.0176/\text{ccf} \times$ volume of gas delivered to all customers, except industrial customers, within the Town of Ridgeway, Colorado on the Company's distribution system.

7. KMI also requests that the Commission issue an order granting to it a CPCN to exercise franchise rights granted by the Town of Ouray. Pursuant to Ordinance No. 8, 2003, adopted August 4, 2003, the Town of Ouray granted KMI a 20-year franchise to provide natural gas service in the Town. Section 12 of the franchise agreement declares that the agreement is to remain in effect for a period of 20 years from the effective date. The Town of Ouray adopted the agreement on August 4, 2003 and KMI accepted the agreement on September 22, 2003. Accordingly, the agreement would expire on September 22, 2023.

8. As consideration for the franchise rights granted, KMI is to pay to the Town of Ouray a sum computed as follows for all gas delivered within the Town: $\$0.0176/\text{ccf} \times$ volume of gas delivered to all customers, except industrial customers, within the Town of Ouray, Colorado on the Company's distribution system.

9. KMI's gas tariff, currently on file with the Commission, will be used for service under this application.

10. KMI has the financial ability and is qualified and competent to conduct the utility operations sought under its application. Accordingly, KMI requests that the financial statements submitted as part of the verified application be accepted in lieu of a feasibility study.

11. The Commission finds that the application is in the public interest and should be granted.

II. ORDER

A. The Commission Orders That:

1. The application by Kinder Morgan, Inc., for a certificate of public convenience and necessity to exercise franchise rights in the Town of Ridgeway, Colorado is deemed complete and granted.

2. The application by Kinder Morgan, Inc., for a certificate of public convenience and necessity to exercise franchise rights in the Town of Ouray, Colorado is deemed complete and granted.

3. Kinder Morgan, Inc.'s request to accept the information, including submitted financial statements, provided in Docket No. 02A-548G and incorporated by reference in this filing as proof of sufficient financial ability to continue to provide utility service as prescribed, in lieu of a feasibility study, as permitted by Rule 4 *Code of Colorado Regulations* 723-1-55(c)(5), is granted.

4. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
March 24, 2004.**

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners