

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04A-125FEG

IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF
COLORADO FOR AN ORDER GRANTING TO IT A CERTIFICATE OF PUBLIC
CONVENIENCE AND NECESSITY TO EXERCISE FRANCHISE RIGHTS IN THE
CITY OF IDAHO SPRINGS, COLORADO.

**DECISION GRANTING APPLICATION
TO EXERCISE FRANCHISE RIGHTS**

Mailed Date: April 21, 2004
Adopted Date: April 13, 2004

I. BY THE COMMISSION

A. Statement, Findings, and Conclusions

1. On March 18, 2004, Public Service Company of Colorado (Public Service) filed an application seeking a Commission order granting a certificate of public convenience and necessity to exercise franchise rights in the City of Idaho Springs, Colorado (Idaho Springs or City).

2. The Commission noticed the application on March 19, 2004 to all interested persons, firms, and corporations. Additionally, Public Service caused a notice of application to be published in *The Clear Creek Courant* on March 17, 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 in accordance with § 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.

3. On March 22, 2004, Staff of the Commission (Staff) informed the company that the application was deficient. Page 3 of the verified application states: "Pursuant to Ordinance No. 8, adopted July 14, 2003, the City granted Public Service an extension of its franchise to provide electric and gas service to the City for a period of 180 days, up to and including December 31, 2003. A certified copy of Ordinance No. 8 is attached as Exhibit 2-A." Staff considered the application deficient because the extension of the 20-year franchise agreement entered into in 1983 had expired.

4. On April 2, 2004, Public Service filed an amendment to the application. The application was amended by adding the following sentences to the original paragraph 3:

Pursuant to Ordinance 3, adopted March, 2004, the City granted Public Service an extension of its franchise agreement to provide electric and gas service in the City for an additional period of 180 days, up to and including June 30, 2004. A certified copy of Ordinance No. 3 is attached as Exhibit 2-B.

5. On April 13, 2004, Staff presented the application and the amendment to the application to the Commission for its consideration.

6. Public Service is a Colorado corporation operating as a public utility subject to the jurisdiction of the Commission and is engaged, *inter alia*, in the generation, transmission, purchase, distribution, and sale of electricity and the purchase, distribution, transportation, and sale of natural gas in various areas in the State of Colorado. All operations to be conducted by Public Service under the certificate of public convenience and necessity sought in the instant application shall be under the name of Public Service Company of Colorado.

7. Public Service requests that the Commission issue an order granting to it a certificate of public convenience and necessity to exercise franchise rights granted by the City.

The City Council of Idaho Springs, on July 1, 1983, granted Public Service a 20-year franchise to provide electric and gas services in the City. As stated above, Ordinance No. 8, Series 2003 ordained by the City Council of the City of Idaho Springs granted an extension of the 1983 franchise agreement to Public Service. Additionally, Ordinance 3, Series 2004, as presented in the amendment, ordained by the City Council of the City of Idaho Springs granted a second extension of the 1983 franchise agreement to Public Service.

8. As consideration for the franchise rights granted and in recognition of Public Service's right to use city streets, Public Service is to pay to the City a sum equal to 3 percent of its gross revenues from the sale and transportation of gas and from the sale of electricity within the corporate limits of the City, excluding all revenues received from the City for gas and electric service furnished to it.

9. K N Energy and United Power are other public utilities or other entities of like character providing similar services in or near the area involved in this application.

10. Public Service's electric and gas tariffs, currently on file with the Commission, will be used for service under this application.

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

12. 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 as amended by Public Service Company of Colorado for a certificate of public convenience and necessity to exercise franchise rights in the City of Idaho Springs, Colorado is deemed complete and granted. The granting of this amended application is effective as of the mailed date of this Decision. Accordingly, the Commission is, in this proceeding, taking no action relating to provisions between the City of Idaho Springs, Colorado and Public Service Company of Colorado as detailed in Ordinance 8, Series 2003, which expired on December 31, 2003.

2. Public Service Company of Colorado's request to accept the submitted financial statements as proof of sufficient financial ability to continue to provide utility service as prescribed, in lieu of a feasibility study, as permitted by Rule 55(c)(5), is granted.

3. This Decision is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
April 13, 2004.**

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners

COMMISSIONER JIM DYER
ABSENT.