

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04A-575FG

IN THE MATTER OF THE APPLICATION OF KINDER MORGAN, INC. FOR A
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AUTHORIZING THE
EXERCISE OF FRANCHISE RIGHTS GRANTED BY THE TOWNS OF JULESBURG, ILIFF,
PAOLI AND AKRON, COLORADO.

**DECISION GRANTING APPLICATION
TO EXERCISE FRANCHISE RIGHTS**

Mailed Date: December 17, 2004
Adopted Date: December 15, 2004

I. BY THE COMMISSION

A. Statement, Findings, and Conclusions

1. On November 16, 2004, Kinder Morgan, Inc. (KMI) filed an application seeking a Commission order granting it a Certificate of Public Convenience and Necessity (CPCN) to exercise franchise rights in the Towns of Julesburg, Iliff, Paoli, and Akron, Colorado.

2. The Commission noticed the application on November 23, 2004 to all interested persons, firms, and corporations. Additionally, KMI caused a notice of application to be published in *The Denver Post* on November 19, 2004. No petition to intervene or notice of intervention was filed. The application is uncontested. Accordingly, the application will be determined without a 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.

3. KMI, a Kansas corporation, is a public utility under 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.

a. Town of Julesburg

4. KMI requests, in this application, that the Commission issue an order granting to it a CPCN to exercise franchise rights granted by the Town of Julesburg, Colorado. Pursuant to Ordinance No. 04-412, adopted September 7, 2004, the town granted KMI a 25-year franchise to furnish, sell, and distribute natural gas service within the limits of the municipality. Section 1 of the franchise agreement declares that the agreement is to commence September 1, 2004, accordingly the franchise agreement expires on September 1, 2029.

5. As consideration for the franchise rights granted, KMI is to pay to the Town of Julesburg an amount equal to \$.01 multiplied by the volume of gas delivered (per ccf) to residential and commercial customers within said municipality on the Grantee's (KMI) distribution system. The Town of Julesburg has the opportunity on each five-year anniversary of the agreement to request review of the dollar fee per ccf.

6. KMI or its predecessor has been providing natural gas to residents of the Town of Julesburg since 1951.

b. Town of Iliff

7. KMI requests, in this application, that the Commission issue an order granting to it a CPCN to exercise franchise rights granted by the Town of Iliff, Colorado. Pursuant to Ordinance No. 02-2004, adopted April 14, 2004, the town granted KMI a 25-year franchise to furnish, sell, and distribute natural gas service within the limits of the municipality. Section 2 of the franchise agreement declares that the agreement is to commence June 4, 2004, accordingly the franchise agreement expires on June 4, 2029.

8. As consideration for the franchise rights granted, KMI is to pay to the Town of Iliff an amount equal to \$.01 multiplied by the volume of gas delivered (per ccf) to residential and commercial customers within said municipality on the Grantee's (KMI) distribution system.

9. KMI or its predecessor has been providing natural gas to residents of the Town of Iliff since 1954.

c. Town of Paoli

10. KMI requests, in this application, that the Commission issue an order granting to it a CPCN to exercise franchise rights granted by the Town of Paoli, Colorado. Pursuant to Ordinance No. 1-04, adopted June 16, 2004, the town granted KMI a 25-year franchise to furnish, sell, and distribute natural gas service within the limits of the municipality. Section 2 of the franchise agreement declares that the agreement is to commence June 7, 2004, accordingly the franchise agreement expires on June 7, 2029.

11. Pursuant to Section 9 of the agreement, the Town of Paoli does not currently desire to establish a franchise tax or fee payable to the municipality as further consideration for this franchise. However, the Town of Paoli reserves the right to later propose an amendment to the franchise agreement. The amendment could present a monetary fee as additional compensation.

12. KMI or its predecessor has been providing natural gas to residents of the Town of Paoli since 1954.

d. Town of Akron

13. KMI requests, in this application, that the Commission issue an order granting to it a CPCN to exercise franchise rights granted by the Town of Akron, Colorado. Pursuant to Ordinance No. 469, adopted August 2, 2004, the town granted KMI a 25-year franchise to

furnish, sell, and distribute natural gas service within the limits of the municipality. Section 2 of the franchise agreement declares that the agreement is to commence August 2, 2004, accordingly the franchise agreement expires on August 2, 2029.

14. As consideration for the franchise rights granted, KMI is to pay to the Town of Akron an amount equal to \$.0173 multiplied by the volume of gas delivered (per ccf) to residential and commercial customers within said municipality on the Grantee's (KMI) distribution system.

15. KMI or its predecessor has been providing natural gas to residents of the Town of Akron since 1954.

B. Discussion

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

17. 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.

18. 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 Julesburg, Colorado is deemed complete and granted. This franchise agreement is scheduled to expire September 1, 2029.

2. The application by Kinder Morgan, Inc. for a certificate of public convenience and necessity to exercise franchise rights in the Town of Iliff, Colorado is deemed complete and granted. This franchise agreement is scheduled to expire June 7, 2029.

3. The application by Kinder Morgan, Inc. for a certificate of public convenience and necessity to exercise franchise rights in the Town of Paoli, Colorado is deemed complete and granted. This franchise agreement is scheduled to expire September 1, 2029. In the event that the franchise agreement between Kinder Morgan, Inc. and the Town of Paoli is amended to propose the implementation of a monetary fee as consideration, Kinder Morgan, Inc. shall be required to file a new application identifying the proposed changes with this Commission.

4. The application by Kinder Morgan, Inc. for a certificate of public convenience and necessity to exercise franchise rights in the Town of Akron, Colorado is deemed complete and granted. This franchise agreement is scheduled to expire August 2, 2029.

5. Kinder Morgan, Inc.'s request to accept the submitted financial statements in lieu of a feasibility study as permitted by Rule 4 *Code of Colorado Regulations* 723-1-55(c)(5), is granted.

6. This Order is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
December 15, 2004.**

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners