

Decision No. C14-0085

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 13A-1314FEG

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 COMMERCE CITY, COLORADO.

**DECISION DEEMING APPLICATION COMPLETE
AND GRANTING THE APPLICATION**

Mailed Date: January 23, 2014

Adopted Date: January 22, 2014

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for consideration of an application filed by Public Service Company of Colorado (Public Service) on December 16, 2013, for a Certificate of Public Convenience and Necessity (CPCN) to exercise franchise rights in the City of Commerce City, in Adams County, Colorado (Commerce City or the City).

2. On December 20, 2013, Public Service filed an Amendment to the Application revising page 4, Section two, changing the referenced Commission Decision number to C86-1601 and the issue date of the decision to November 25, 1986 and amending page 6 changing the “City of Edgewater” to the “City of Commerce City.”

3. On January 8, 2014, Public Service filed a Motion requesting waivers of Commission Rules 4002(d) of the Rules Regulating Gas Utilities and Pipeline Operators, 4 *Code of Colorado Regulation* (CCR) 723-4, and Rule 3002(d) of the Rules Regulating Electric Utilities, 4 CCR 723-3 due to the infrequent nature with which the newspaper publishes.

4. The Commission provided notice of this application on December 18, 2013, to all interested persons, firms, and corporations. Public Service noticed this application by publication in the *Commerce City Sentinel Express*, a newspaper circulated within all areas that would be impacted by the application, on December 31, 2013. No petition to intervene or notice of intervention has been filed, and thus the application is uncontested. As such, the application will be determined without a formal hearing in accordance with § 40-6-109(5), C.R.S., and Rule 1403 of the Rules of Practice and Procedure, 4 CCR 723-1.

B. Finding and Conclusions

5. Public Service is engaged in, *inter alia*, the generation, transmission, purchase, distribution, and sale of electricity and the purchase, distribution, transmission, and sale of natural gas in its certificated areas in the State of Colorado. Commerce City is located within one such certificated area.

6. Public Service requests the Commission issue a Decision granting it a CPCN to exercise franchise rights in the City. On August 6, 2012, the City passed Ordinance No. 1919, granting Public Service a 20-year franchise to provide electric service and natural gas service within Commerce City, taking effect November 6, 2012, and terminating on November 6, 2032.

7. On November 9, 1955, the City granted Public Service a 25-year franchise to provide electric service and gas service to the City in Ordinance No. 41. On April 18, 1956, the Commission, in Decision No. 45676, Application No. 14124, granted Public Service a CPCN to exercise franchise rights as described in Ordinance No. 41.

8. On October 16, 1961, the City granted Public Service a 25-year franchise to provide electric service and gas service to the City in Ordinance No. 100. On May 15, 1962, the

Commission, in Decision No. 58571, Application No. 18931, granted Public Service a CPCN to exercise franchise rights as described in Ordinance No. 100.

9. On May 5, 1986, the City granted Public Service a 25-year franchise to provide electric service and gas service to the City in Ordinance No. 765. On November 25, 1986, the Commission, in Decision No. C86-1601, Application No. 37951, granted Public Service a CPCN to exercise franchise rights as described in Ordinance No. 765.

10. A utility wishing to exercise any franchise agreement or privileges entered with a municipality must obtain a CPCN from the Commission pursuant to § 40-5-102, C.R.S. When the municipality and utility enter into a franchise agreement, that agreement must be submitted to the Commission for approval. *See* § 40-5-102, C.R.S. Such applications allow the Commission to review franchise agreements to ensure that the terms are reasonable and in the public interest.

11. The Commission understands that the utility and the municipality may want to revise the terms established in a franchise agreement at some point in the future and that existing franchise agreements have scheduled expiration dates. Upon negotiation of a new or amended franchise agreement, the utility shall return to the Commission in a timely manner to obtain authorization to implement the provisions of the new franchise agreement. In the event that this franchise is not renewed at the expiration of its term or is terminated for any reason, the company is directed to notify the Commission in a timely manner.

12. According to the franchise agreement presented in this application, as consideration for the franchise rights granted and in recognition of Public Service's right to use City streets, the City requires that Public Service shall collect and remit to the City, a franchise fee equal to 3 percent of all revenues received from the sale of electric service and

natural gas service within the City, excluding revenues received from the City for the sale of electric and natural gas service to the City.

13. No other utility is authorized to provide electric and natural gas service within the area for which Public Service seeks a certificate in this application.

14. We find that the franchise is required by public convenience and necessity and the terms of the franchise agreement are just, reasonable, and in the public interest. However, in the event that issues of revenue requirement, cost allocation, and rate design are implicated by any provision of the franchise agreement, those issues will be analyzed in an appropriate Commission proceeding. Approval of the franchise agreement does not constitute approval of, or precedent regarding any principle or issue in revenue requirement, cost allocation, or rate design in any electric and natural gas service adjustment, refund, or rate case proceedings.

15. Public Service has provided electric and gas service in the City since 1955, subject to relevant franchise agreements. Because the area encompassed by the Commerce City franchise was previously served by Public Service, the requirement to provide a feasibility study as set forth in Rule 3100(b)(VI) of the Rules Regulating Electric Utilities, 4 CCR 723-3, and Rule 4100(b)(VI) of the Rules Regulating Gas Utilities and Pipeline Operators, 4 CCR 723-4 can be satisfied by alternatively utilizing Public Service's financial statements.

16. We find Public Service has the financial ability and is qualified and competent to conduct the utility operations sought under its application.

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

18. Providing uninterrupted service to the residents of Commerce City is in the public interest. Therefore, the Commission finds that the application is in the public interest and should be granted.

II. ORDER

A. The Commission Orders That:

1. The amended application filed by Public Service Company of Colorado (Public Service), for a Certificate of Public Convenience and Necessity (CPCN) to exercise franchise rights pursuant to Ordinance No. 1919, in the City of Commerce City, Colorado is deemed complete and granted.

2. The grant of the CPCN to operate under the terms of this franchise agreement is in the public interest and in accordance with the terms of § 40-5-102, C.R.S.

3. The franchise agreement between Public Service and the City of Commerce City and the rights and obligations associated therewith is scheduled to expire on November 6, 2032.

4. The request by Public Service to waive Commission Rules 4002(d) of the Rules Regulating Gas Utilities and Pipeline Operators, 4 *Code of Colorado Regulation* (CCR) 723-4, and Rule 3002(d) of the Rules Regulating Electric Utilities, 4 CCR 723-3 due to the infrequent nature with which the newspaper publishes and the impending holidays is granted.

5. The 20-day time period provided by § 40-6-114(1), C.R.S., to file an application for rehearing, reargument, or reconsideration shall begin on the first day after the Commission mails this Decision.

6. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
January 22, 2014.**

(S E A L)



ATTEST: A TRUE COPY



Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JOSHUA B. EPEL

PAMELA J. PATTON

GLENN A. VAAD

Commissioners