

Decision No. C14-0521

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14A-0314FG

IN THE MATTER OF THE PROCEEDING 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 TOWN OF VAIL, COLORADO.

**DECISION DEEMING PROCEEDING COMPLETE
AND GRANTING THE PROCEEDING**

Mailed Date: May 16, 2014
Adopted Date: May 14, 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 Company or Company) on April 7, 2014, for a Certificate of Public Convenience and Necessity (CPCN) to exercise franchise rights in the Town of Vail, in Eagle County, Colorado (Vail or the Town).

2. The Commission provided notice of this Proceeding on April 8, 2014, to all interested persons, firms, and corporations. Public Service Company noticed this Proceeding by publication in the *Vail Daily*, a newspaper circulated within all areas that would be impacted by the Proceeding, on April 9, 2014. No petition to intervene or notice of intervention has been filed and thus the Proceeding is uncontested. Accordingly, the Proceeding 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 *Code of Colorado Regulations* (CCR) 723-1.

B. Finding and Conclusions

3. Public Service Company is engaged in, *inter alia*, the purchase, distribution, and sale of natural gas service in its certificated areas in the State of Colorado. Vail is located within one such certificated area.

4. Public Service Company requests that the Commission issue a Decision granting it a CPCN to exercise franchise rights in the Town. Pursuant to Ordinance No 24, Series 2013, adopted December 17, 2013, the Town granted Public Service Company a 20-year franchise to provide natural gas service within Vail, that took effect February 1, 2014 and expires on January 31, 2034.

5. On February 27, 1969, the Commission, in Decision No. 72585, Application No. 23540, granted Public Service Company a CPCN to exercise franchise rights in the Town for 25-years.

6. On November 16, 1993, the Town passed Ordinance No. 29, Series 1993, granting Public Service Company a 20-year franchise to provide natural gas service to the Town. On April 5, 1994, the Commission, in Decision No. C94-407, Proceeding No. 94A-120F, granted Public Service Company a CPCN to exercise franchise rights as described in Ordinance No. 29, Series 1993.

7. 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 a utility enter into a franchise agreement, that agreement must be submitted to the Commission for approval. *See* § 40-5-102, C.R.S. Such proceedings allow the Commission to review franchise agreements to ensure that the terms are reasonable and in the public interest.

8. 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.

9. According to the franchise agreement presented in this Proceeding, as consideration for the franchise rights granted and in recognition of Public Service Company's right to use Town streets, the Town requires Public Service Company to collect and remit to the Town, a franchise fee of 3 percent of all revenues received from the sale of natural gas service within the Town, excluding revenues received from the Town for the sale of natural gas service to the Town.

10. No other utility is authorized to provide natural gas utility service within the area for which Public Service Company seeks a certificate in this Proceeding.

11. 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 natural gas adjustment, refund, or rate case proceedings.

12. Public Service Company has provided natural gas service in the Town since 1969, subject to franchise agreements. Because the area encompassed by the Vail franchise was previously served by Public Service Company, the Company is not required to provide a feasibility study as set forth in Rule 4100(b)(VI) of the Rules Regulating Gas Utilities and Pipeline Operators, 4 CCR 723-4.

13. We find that Public Service Company has the financial ability and is qualified and competent to conduct the utility operations sought under its Proceeding.

14. Public Service Company's natural gas service tariffs, currently on file with the Commission, will be used for service under this Proceeding.

15. Providing uninterrupted service to the residents of Vail is in the public interest. Therefore, the Commission finds that the Proceeding is in the public interest and should be granted.

II. ORDER

A. The Commission Orders That:

1. The Application filed by Public Service Company of Colorado (Public Service Company), for a Certificate of Public Convenience and Necessity (CPCN) to exercise franchise rights pursuant to Ordinance No. 24, Series 2013, in the Town of Vail, 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 Company and the Town of Vail and the rights and obligations associated therewith are scheduled to expire on January 31, 2034.

4. 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.

5. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
May 14, 2014.**

(S E A L)



ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Doug Dean".

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

PAMELA J. PATTON

GLENN A. VAAD

Commissioners

CHAIRMAN JOSHUA B. EPEL
ABSENT.