

Decision No. C14-1303

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO**

PROCEEDING NO. 14A-0939FE

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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 TOWN OF MOFFAT, COLORADO.

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

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Mailed Date: October 31, 2014

Adopted Date: October 29, 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 September 16, 2014, for a Certificate of Public Convenience and Necessity (CPCN) to exercise franchise rights in the Town of Moffat, in Saguache County, Colorado (Moffat or the Town).

2. On September 18, 2014, the Company filed an amendment to the application in order to provide Commission Staff with the ordinance that increased the franchise fee from 2 percent to 3 percent, which had not been filed with the Commission when it was passed and adopted.

3. The Commission provided notice of this application on September 17, 2014, to all interested persons, firms, and corporations. 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 *Code of Colorado Regulations* (CCR) 723-1.

**B. Finding and Conclusions**

4. Public Service Company is engaged in, *inter alia*, the generation, transmission, purchase, distribution, and sale of electric service in its certificated areas in the State of Colorado. Moffat is located within one such certificated area.

5. Public Service Company requests the Commission issue a decision granting it a CPCN to exercise franchise rights in the Town. On November 6, 2012, the Town passed Ordinance No. 50-21-2, granting Public Service Company a franchise to provide electric service within Moffat for 20 years, taking effect December 9, 2012 and terminating December 8, 2032.

6. On March 7, 1963, the Town granted Public Service Company, a 25-year franchise to provide electric service to the Town in Ordinance No. 39. On July 9, 1963, the Commission, in Decision No. 60950, Application No. 19731, granted Public Service a CPCN to exercise franchise rights as described in Ordinance No. 39.

7. On November 5, 1987, the Town granted Public Service Company, a 25-year franchise to provide electric service to the Town in Ordinance No. 40. On June 29, 1988, the Commission, in Decision No. C88-840, Application No. 38921, granted Public Service a CPCN to exercise franchise rights as described in Ordinance No. 40.

8. On October 6, 2009, the Town signed, then repassed, on December 1, 2009, Ordinance No. 4-2009. This Ordinance amended Ordinance No. 40 by increasing the franchise fee from 2 percent to 3 percent.

9. 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.

10. The Commission understands 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.

11. According to the franchise agreement presented in this application, 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 equal to 3 percent of all revenues received from the sale of electric service within the Town, excluding revenues received from the Town for the sale of electric service to the Town.

12. No other utility is authorized to provide electric service within the area for which Public Service Company seeks a certificate in this application.

13. We find 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.

14. Public Service Company has provided electric service in the Town since 1963 subject to a relevant franchise agreement. Because the area encompassed by the Moffat franchise was previously served by Public Service Company, the Company is not required to provide a feasibility study as set forth in Rule 3100(b)(VI) of the Rules Regulating Electric Utilities, 4 CCR 723-3.

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

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

17. Providing uninterrupted service to the residents of Moffat 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 application, as amended, 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. 50-21-2, in the Town of Moffat, 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 Moffat and the rights and obligations associated therewith are scheduled to expire on December 8, 2032.

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  
October 29, 2014.**

( S E A L )



ATTEST: A TRUE COPY

Doug Dean,  
Director

THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF COLORADO

JOSHUA B. EPEL

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PAMELA J. PATTON

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GLENN A. VAAD

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Commissioners