

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14A-1050FEG

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 LEADVILLE, COLORADO.

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

Mailed Date: December 5, 2014
Adopted Date: December 3, 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 October 28, 2014, for a Certificate of Public Convenience and Necessity (CPCN) to exercise franchise rights in the City of Leadville, in Lake County, Colorado (Leadville or the City).

2. The Commission provided notice of this application on October 30, 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

3. 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. Leadville is located within one such certificated area.

4. Public Service requests the Commission issue a Decision granting it a CPCN to exercise franchise rights in the City. On August 5, 2014, the City passed Ordinance No. 6, Series 2014, granting Public Service a 20-year franchise to provide electric service and natural gas service within Leadville, taking effect September 22, 2014, and terminating on September 21, 2034.

5. On May 5, 1959, the City granted Public Service a 25-year franchise to provide electric service to the City in Ordinance No. 2-1959. On October 8, 1959, the Commission, in Decision No. 53186, Application No. 17327-Extension, granted Public Service a CPCN to exercise franchise rights as described in Ordinance No. 2-1959.

6. On January 12, 1966, the Commission, in Decision No. 66605, Application No. 21718-Amended, granted the transfer to Public Service from Leadville Utilities Company (Utilities) in Lake County the rights and privileges to distribute and sell gas in the City granted to Utilities in Lake County by Ordinance No. 9, Series 1954.

7. On March 2, 1971, the City granted Public Service a 25-year franchise to provide electric and natural gas service to the City in Ordinance No. 3, Series 1971. On July 19, 1971, the Commission, in Decision No. 78212, Application No. 24970, granted Public Service a CPCN to exercise franchise rights as described in Ordinance No. 3, Series 1971.

8. On August 15, 1989, the City granted Public Service a 25-year franchise to provide electric and natural gas service to the City in Ordinance No. 6, Series 1989. On January 17, 1990, the Commission, in Decision No. C90-79, Proceeding No. 89A-730F, granted Public Service a CPCN to exercise franchise rights as described in Ordinance No. 6, Series 1989.

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 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.

11. 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.

12. 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.

13. 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.

14. Public Service has provided electric service to the City since 1959 and gas service since 1965, subject to relevant franchise agreements. Because the area encompassed by the Leadville 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.

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

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

17. Providing uninterrupted service to the residents of Leadville 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 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. 6, Series 2014, in the City of Leadville, 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 Leadville and the rights and obligations associated therewith is scheduled to expire on September 21, 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
December 3, 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.