

Decision No. R14-0599-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 14A-0287E

IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO (A) FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR THE PAWNEE TO DANIELS PARK 345 KV TRANSMISSION PROJECT, AND (B) FOR SPECIFIC FINDINGS WITH RESPECT TO EMF AND NOISE.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
G. HARRIS ADAMS
STRIKING MOTION**

Mailed Date: June 4, 2014

I. STATEMENT

1. Public Service Company of Colorado filed the above-captioned proceeding with the Colorado Public Utilities Commission on March 28, 2014.

2. On April 24, 2014, a request for permissive intervention (Motion) was filed by the Rowley Downs Homeowners Association of Parker, Colorado (Rowley Downs) requesting permission to intervene in this proceeding. The pleading was signed by Michael Roueche, President.

3. By Decision No. C14-0553-I issued May 23, 2014, this matter was referred to an Administrative Law Judge (ALJ) for disposition.

4. Rule 4 *Code of Colorado Regulations* (CCR) 723-1-1201(a) of the Commission's Rules of Practice and Procedure requires a party in a proceeding before the Commission to be represented by an attorney except that, pursuant to Rule 4 CCR 723-1-1201(b)(II) and as relevant here, an individual who is not an attorney may appear to represent the interests of a closely-held

entity *provided* the requirements of § 13-1-127, C.R.S., are met and the Commission grants permission. The Commission has held that, unless an exception applies, a party must be represented by counsel in an adjudicatory proceeding. In addition, the Commission has held that, if a party does not establish that an exception applies to it, there are two consequences: first, filings made by a non-attorney on behalf of the party are void and of no legal effect; and, second, the party must be represented by an attorney in order to participate in the proceeding.

5. This is an adjudicatory proceeding.

6. Rowley Downs is not an individual and is not represented by legal counsel in this Proceeding.

7. By Decision No. R14-0557-I issued May 23, 2014 at ¶ 9 and Ordering Paragraph No. 1, the ALJ ordered Rowley Downs either to retain legal counsel for this Proceeding or to show cause why Rule 4 CCR 723-1-1201 does not require it to be represented in this matter by an attorney at law currently in good standing before the Supreme Court of the State of Colorado. If Rowley Downs chose to retain counsel, its legal counsel was to enter an appearance on or before June 2, 2014. If Rowley Downs chose to show cause, it was to make its show cause filing on or before June 2, 2014.

8. Decision No. R14-0557-I contained the following advisements:

Rowley Downs HOA is advised that failure to make the filing described in ¶ 11 above or file its counsel's entry of appearance, by June 2, 2014, will result in dismissal of its intervention without prejudice.

Id. at ¶¶ 13 (bolding in original).

9. No attorney entered an appearance on behalf of Rowley Downs. Rowley Downs did not request additional time within which to retain legal counsel.

10. Rowley Downs did not make a filing in response to the order to show cause (*i.e.*, Decision No. R14-0557-I). Rowley Downs did not request additional time within which to respond to the order to show cause.

11. Without explanation, Rowley Downs failed to comply with the Decision No. R14-0557-I requirement that Rowley Downs either retain legal representation in this Proceeding or make a show cause filing. Rowley Downs failed to show that it is not required to be represented by counsel. In clear language, the ALJ advised Rowley Downs of the consequences if it failed to comply with Decision No. R14-0557-I.

12. In accordance with Rule 4 CCR 723-1-1201(a), Rowley Downs cannot appear through its President in this matter and must be represented by an attorney. Accordingly the Motion will be stricken without prejudice.

II. ORDER

A. It Is Ordered That:

1. Consistent with the discussion above and absent further order, the Rowley Downs Homeowners Association (Rowley Downs) is prohibited from participating in, or making filings in, this Proceeding other than through public comment.

2. The request for permissive intervention filed on April 24, 2014 by the Rowley Downs is stricken without prejudice.

3. If Rowley Downs's legal counsel enters an appearance in this Proceeding and if legal counsel makes an appropriate motion within ten days, then the Administrative Law Judge will reconsider this ruling.

4. The Parties are held to the advisements in previous decisions issued in this Proceeding.

5. This Interim Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

G. HARRIS ADAMS

Administrative Law Judge

ATTEST: A TRUE COPY

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

Doug Dean,
Director