

Decision No. C20-0235

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 20A-0079FG

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 NATURAL GAS FRANCHISE RIGHTS IN THE CITY OF LOVELAND, COLORADO.

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

Mailed Date: April 13, 2020
Adopted Date: April 8, 2020

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 or Company) on February 28, 2020, for a Certificate of Public Convenience and Necessity (CPCN) to exercise franchise rights in the City of Loveland, Larimer County, Colorado (Loveland or City).

2. The Commission provided notice of this application on March 3, 2020, to all interested persons, firms, and corporations. No petition to intervene or notice of intervention has been filed, and thus the application is uncontested. Accordingly, the application will be determined without a formal hearing in accordance with § 40-6-109(5), C.R.S., and Rule 1403, 4 *Code of Colorado Regulations* (CCR) 723-1 of the Commission's Rules of Practice and Procedure.

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

4. Public Service requests the Commission issue a Decision granting it a CPCN to exercise franchise rights in Loveland. Pursuant to Ordinance No. 6359, adopted December 17, 2019, the City granted Public Service a 15-year franchise to provide natural gas service within Loveland, that took affect January 1, 2020 and expires December 31, 2035.

5. On July 5, 1972 Loveland passed and adopted Ordinance No. 1222, granting Public Service a franchise to provide natural gas service within Loveland. On December 26, 1972, the Commission, in Decision No. 28022, Application No. 25966, granted Public Service a CPCN to exercise franchise rights as described in Ordinance No. 1222.

6. On November 7, 1989, Loveland passed and adopted Ordinance No. 3620, amending the existing franchise agreement by changing the franchise fee from 2 percent to 3 percent. The City granted Ordinance Nos. 4265, 4345, 4489, 4541, 4720, 4800, and 4870 extending Ordinance No. 1222 to June 30, 2004.

7. On June 15, 2004 Loveland passed and adopted Ordinance No. 4895, granting Public Service a franchise to provide natural gas service within Loveland. On February 8, 2005, the Commission in Decision No. C05-0164, Proceeding No. 04A-653FG granted Public Service a CPCN to exerise Franchise rights as described in Ordinance 4895. On July 3, 2019, the City adopted the First Amendment to the Franchise Agreement, extending the expiration date to December 31, 2019.

8. A utility wishing to exercise any franchise agreement or privileges entered into 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.

9. 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.

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

11. No other utility is authorized to provide natural gas utility service within the areas for which Public Service seeks a certificate in this application.

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

13. Public Service has provided gas service in the City since 1972, subject to a relevant franchise agreement. Because the areas encompassed by the above-referenced franchises are currently served by Public Service, the Company is not required to provide a feasibility study for each area as set forth in Rule 4100(b)(VI), 4 CCR 723-4 of the Commission's Rules Regulating Gas Utilities and Pipeline Operators.

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

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

16. Providing uninterrupted service to the residents of Loveland 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 of Colorado, for a Certificate of Public Convenience and Necessity (CPCN) to exercise franchise rights pursuant to Ordinance No. 6359 in the City of Loveland 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 shall remain in effect for a period of 15 years and terminates on December 31, 2035.

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
April 8, 2020.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JEFFREY P. ACKERMANN

JOHN GAVAN

MEGAN M. GILMAN

Commissioners