

Decision No. C20-0287

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 20A-0080E

IN THE MATTER OF THE APPLICATION OF HOLY CROSS ELECTRIC ASSOCIATION, INC. FOR AN EXTENSION OF ITS CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

**COMMISSION DECISION DEEMING
APPLICATION COMPLETE AND
GRANTING APPLICATION FOR AN EXTENSION OF
CERTIFICATE OF PUBLIC CONVENIENCE AND
NECESSITY TO PROVIDE ELECTRIC SERVICE IN
CERTAIN PORTIONS OF EAGLE, GARFIELD,
GUNNISON, MESA, AND PITKIN COUNTIES**

Mailed Date: April 23, 2020

Adopted Date: April 15, 2020

I. BY THE COMMISSION

A. Statement

1. This Decision finds that this matter is uncontested for purposes of Rule 1403 of the Commission's Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-1, and grants the Application for a Certificate of Public Convenience and Necessity (CPCN) to extend service in portions of Eagle, Garfield, Gunnison, Mesa, and Pitkin Counties, filed on March 2, 2020, by Holy Cross Electric Association, Inc. (Holy Cross or Company).

B. Background, Findings, and Conclusions

2. Holy Cross is a cooperative electric association as defined by § 40-9.5-102, C.R.S., and a public utility as defined in § 40-1-103, C.R.S. Holy Cross voted to exempt itself from Commission regulation under § 40-9.5-101, *et seq.*, C.R.S.

3. Through Decision No. 21764, dated December 29, 1943; Decision No. 41079, dated August 7, 1953; Decision No. 45671, dated April 18, 1956; Decision No. 63781, dated October 15, 1964; Decision No. 79175, dated December 2, 1971; and Decision No. C94-705, issued June 27, 1994, Holy Cross holds CPCNs from the Commission to provide electric service in portions of Eagle, Garfield, Gunnison, Mesa, and Pitkin Counties.

4. On March 2, 2020, pursuant to §§ 40-5-102, 40-5-103 and 40-9.5-105, C.R.S., and Commission Rules 1303, 3000, 3002 and 3101, 4 CCR 723-1 and 723-3 of the Rules Regulating Electric Utilities, Holy Cross filed an Application for a CPCN to extend its electric service in certain portions of Eagle County, Garfield County, Gunnison County, Mesa County, and Pitkin County (CPCN Application).

5. The Commission issued notice of the CPCN Application to all interested persons, firms, and corporations on March 3, 2020. No petition to intervene or notice of intervention has been filed.

6. In its CPCN Application, Holy Cross states that it is requesting an extension of its CPCN in 12 distinct areas located in uncertificated territory adjacent to Holy Cross's certificated service territory. The Company states that it seeks a natural extension of its current certificated territory to include areas where it is presently providing service to customers. The Company states that it is not aware of any entity that holds authority duplicating the authority sought in the CPCN Application.

7. Holy Cross states it currently has more than adequate power supply, financing, and personnel to serve all present and foreseeable customers in the areas to which it seeks to expand its certificated service territory. The Company states that the existing lines of only one utility in an uncertificated area is proof that the utility is adequately meeting the needs of the

area. Holy Cross represents that it is presently serving the areas in question, thereby avoiding improper duplication, intermingling, confusion, and uncertain planning which would otherwise cause increased costs and danger to the consuming public.

8. The requirement to provide a feasibility study as set forth in Rule 3101(b)(VII), 4 CCR 723-3, can be satisfied by the utility requesting that the Commission accept its most recent audited balance sheet, income statement, statement of retained earnings, and statement of cash flows in lieu of a feasibility study. Holy Cross provided Financial Statements with Report of Certified Public Accountant for the years ended April 30, 2018 and April 30, 2019 with the unaudited financial statement dated December 31, 2019, submitted as part of the CPCN Application to be accepted in lieu of a feasibility study.

9. With its CPCN Application, the Company provided a map of the proposed service territory extension, which is attached to this Decision as Appendix A. The description of the type of utility service to be rendered and the description of area sought to be served for each of the 12 areas at issue is as follows:

- a. Area 1. Area 1 consists of uncertificated territory covering eighteen continuous sections and portions of eleven sections in Pitkin County within T10S, R89W of the 6th Principal Meridian. Area 1 also includes the eastern half of Section 1 and the northeast corner of Section 12, T11S, R89W of the 6th Principal Meridian. Holy Cross' certificated territory borders Area 1 on the east side of Area 1. Delta Montrose Electrical Association certificated territory borders Area 1 on the west side of the Gunnison and Pitkin County line. Uncertificated territory borders Area 1 on the north. Area 1 consists of high desert and mountainous terrain and was once the site of the Mid-Continent Coal & Coke mines. Holy Cross purchased a 69kV transmission line that services Area 1 as part of the Colorado-Ute Electric bankruptcy. Holy Cross presently provides electric service to three customers in Area 1.
- b. Area 2. Area 2 consists of one quarter section of uncertificated territory located at NE $\frac{1}{4}$ of Section 3, T11S, R84W of the 6th Principal Meridian.

- Holy Cross' certificated territory borders Area 2 on the north side of Area 2. Uncertificated territory borders Area 2 on the east, south, and west sides of Area 2. Area 2 consists of mountain valley terrain located four miles south of Aspen and is surrounded by National Forest. One residential customer is in Area 2, and Holy Cross presently provides electric service to it.
- c. Area 3. Area 3 consists of one section of uncertificated territory located at Section 15, T8S, R92W of the 6th Principal Meridian. Holy Cross' proposed Area 5 borders Area 3 on the north side of Area 3. Uncertificated territory borders Area 3 on the east, south, and west sides of Area 3. Area 3 consists of high desert terrain located fifteen miles south of Silt and the southern border is National Forest. Two residential customers are in Area 3, and Holy Cross presently provides electric service to them.
 - d. Area 4. Area 4 consists of one and a half sections of uncertificated territory located at the N ½ of Section 10 and Section 14, T8S, R96W of the 6th Principal Meridian. Holy Cross' certificated territory is on the north side of the Garfield and Mesa County line in Section 10, the east side of Section 10 and north side of Section 14 of Area 4. Uncertificated territory borders Area 4 on the east side of Section 10 south of the county line, south, and west sides of Area 4. Eleven residential customers are in Area 4, and Holy Cross presently provides electric service to them.
 - e. Area 5. Area 5 consists of one section of uncertificated territory located at Section 10, T8S, R92W of the 6th Principal Meridian. Holy Cross' certificated territory is the east side of Area 5 and proposed Area 3 is on the south side of Area 5. Uncertificated territory borders Area 5 on the north and east sides of Area 5. Area 5 consists of high desert terrain located fifteen miles south of Silt. Two residential customers are in Area 5, and Holy Cross presently provides electric service to them.
 - f. Area 6. Area 6 consists of one section of uncertificated territory located at Section 20, T7S, R91W of the 6th Principal Meridian. Holy Cross' certificated territory is the west side of Area 6. Uncertificated territory borders Area 6 on the east, south, and north sides of Area 6. Area 6 consists of high desert terrain located eight miles south-southeast of Silt. Four residential customers are in Area 6, and Holy Cross presently provides electric service to them.
 - g. Area 7. Area 7 consists of one section of uncertificated territory located at Section 4, T7S, R90W of the 6th Principal Meridian. Holy Cross' certificated territory is the north and west sides of Area 7. Uncertificated territory borders Area 7 on the south and east sides of Area 7. Area 7 consists of high desert terrain located eight miles south-southeast of New Castle. One residential customer is in Area 7, and Holy Cross presently provides electric service to it.

- h. Area 8. Area 8 consists of two sections of uncertificated territory located at Sections 1 and 2, T7S, R93W of the 6th Principal Meridian. Holy Cross' certificated territory is the south and east sides of Area 8. Area 8 consists of high desert terrain located approximately five miles south-southeast of Rifle. Holy Cross presently provides electric service to seven residential and four commercial customers in Area 8.
- i. Area 9. Area 9 consists of two sections of uncertificated territory located at Section 30 and 31, T7S, R85W of the 6th Principal Meridian. Holy Cross' certificated territory is the east, south, and west sides of Area 9. Uncertificated territory borders Area 9 to the north. Area 9 consists of mountainous terrain located seven miles east of Basalt. Ten residential customers are located in Area 9, and Holy Cross presently provides electric service to them.
- j. Area 10. Area 10 consists of three sections of uncertificated territory located at Sections 1 and 2, T6S, R82.5W and Section 6, T6S, R82W of the 6th Principal Meridian. Holy Cross' certificated territory is the north and west sides of Area 10. Uncertificated territory borders Area 10 on the east and south sides. Area 10 consists of mountainous terrain located seven miles southwest of Avon. One residential customer is in Area 10, and Holy Cross presently provides electric service to it.
- k. Area 11. Area 11 consists of one section of uncertificated territory located at Section 1, T6S, R82W of the 6th Principal Meridian. Holy Cross' certificated territory is the north side of Area 11. Uncertificated territory borders Area 11 on the east, south, and west sides of Area 11. Area 11 consists of mountainous terrain located on the Beaver Creek Ski Resort. Five commercial customers are in Area 11, and Holy Cross presently provides electric service to them.
- l. Area 12. Area 12 consists of six sections of uncertificated territory located at Sections 1, 2, 3, 4, 5, and 6, T6S, R80W of the 6th Principal Meridian. Holy Cross' certificated territory is the north side of Area 12. Uncertificated territory borders Area 12 on the east, south, and west sides of Area 12. Area 12 consists of mountain terrain located on the Vail Ski Resort. Three commercial customers are in Area 12, and Holy Cross presently provides electric service to them.

10. Consistent with § 40-6-109(5), C.R.S., and Rule 1403 of the Commission's Rules of Practice and Procedure, 4 CCR 723-1, the Commission may determine an application without hearing if the matter is uncontested or unopposed.

11. No interventions or public comments were filed in this proceeding. Therefore, we consider this matter uncontested, and determine this matter without a formal hearing.

12. We accept the submission of financial statements as proof of sufficient financial ability to continue to provide utility service as prescribed in lieu of a feasibility study, as permitted by Rule 3101(b)(VII), 4 CCR 723-3.

13. The Commission has reviewed the CPCN Application and finds that the requested service extension is in the public interest. Therefore, the Commission finds good cause to grant the unopposed CPCN Application.

II. ORDER

A. The Commission Orders That:

1. The Application of Holy Cross Electric Association, Inc. (Holy Cross) for an extension of its Certificate of Public Convenience and Necessity (CPCN) to certain portions of Eagle, Garfield, Gunnison, Mesa, and Pitkin Counties for the distribution and sale of energy in the areas described above and in attached Appendix A, is deemed complete and is granted.

2. The request by Holy Cross to substitute the submitted financial statements as proof of sufficient financial ability to continue to provide utility service as prescribed in lieu of a feasibility study, as permitted by Rule 3101(b)(VII), 4 *Code of Colorado Regulations* 723-3, is granted.

3. This Decision shall be deemed to be, and shall be, a CPCN. The authority granted shall be exercised from and after the effective date of this Decision.

4. The Commission shall retain jurisdiction over this proceeding to the end that it may take such action and enter such orders as may appear necessary to fully effectuate this Order. Any area of the requested CPCN not served by Holy Cross within a reasonable timeframe will be subject to review, revision, or termination by this Commission.

5. 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.

6. This Decision is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
April 15, 2020.**

(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

JEFFREY P. ACKERMANN

JOHN GAVAN

Commissioners

COMMISSIONER MEGAN M. GILMAN IS
RECUSED FROM THIS MATTER.