

Decision No. R23-0008

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 22A-0322E

IN THE MATTER OF THE APPLICATION OF PUBLIC SERVICE COMPANY OF COLORADO CONCERNING AN APPEAL OF A LOCAL GOVERNMENTAL LAND USE DECISION ISSUED BY THE TOWN OF EATON.

**RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE
ALENKA HAN
ACCEPTING WITHDRAWAL OF APPLICATION**

Mailed Date: January 6, 2023

I. STATEMENT, FINDINGS, AND CONCLUSIONS

1. Public Service Company of Colorado (the Company) filed the Application at issue in this proceeding on July 11, 2022, to appeal the Town of Eaton’s (the Town) denial of the Company’s Special Review Use Permit to construct the Company’s Northern Colorado Area Plan (NCAP) Project, a two-mile stretch of which is planned through the Town. The Company asked the Public Utilities Commission (the Commission or the PUC) to exercise its “back-stop” siting authority to “issue an order unconditionally: (1) approving the Company’s planned siting of the Eaton Transmission Segment . . .; and (2) authorizing the Company to begin construction of the NCAP Project along the Eaton Transmission Segment of the Proposed Route, pursuant to § 40-4-102(1), C.R.S.”

2. The Commission gave public notice of the Application on July 12, 2022.

3. The following parties intervened as of right:

- The Office of the Utility Consumer Advocate (UCA) filed its Intervention of Right on July 18, 2022;
 - The Town filed its Intervention as of Right on August 9, 2022; and,
 - Commission Trial Staff filed its Intervention as of Right on August 15, 2022.
4. On August 17, 2022, the Commission referred the proceeding to an Administrative Law Judge (ALJ) for disposition.
5. By Decision No. R22-0508-I, this Proceeding was stayed pending further order. The Town and the Company were ordered to file either (1) a Status Report and proposed procedural schedule or, (2) a motion to further stay or dismiss this Proceeding on or before October 17, 2022, as appropriate.
6. On October 17, 2022, the parties filed an Unopposed Joint Motion to Extend Stay of Proceeding through December 28, 2022.
7. Decision No. R22-0787-I granted the parties' joint request and extended the stay through December 28, 2022.
8. On December 21, 2022, the Company filed its Notice of Withdrawal of its Verified Application. The Company represented that the Town "is supportive" of the Company's withdrawal of its Application. The Company also stated that it provided courtesy notice of the withdrawal of its Application to Trial Staff of the Commission (Staff), and the Colorado Office of the Utility Consumer Advocate (UCA).
9. No hearing has been set in this Proceeding.
10. Pursuant to Rule 1309(d) of the Rules of Practice and Procedure, 4 Code of Colorado Regulations (CCR) 723-1, a party may withdraw its application "upon notice to the Commission and all parties prior to 45 days before the first day of hearing."

11. As no hearing has been set in this Proceeding, the Company may withdraw its Application without leave of the Commission. The ALJ acknowledges the Company's withdrawal of its Application and will close this Proceeding.

II. ORDER

A. It Is Ordered That:

1. Public Service Company of Colorado's Withdrawal of its Verified Application filed July 11, 2022, is acknowledged.

2. Proceeding No. 22A-0322E is closed.

3. This Recommended Decision shall be effective on the day it becomes the Decision of the Commission, if that is the case, and is entered as of the date above.

a. If no exceptions are filed within 20 days after service or within any extended period of time authorized, or unless the decision is stayed by the Commission upon its own motion, the recommended decision shall become the decision of the Commission and subject to the provisions of § 40-6-114, C.R.S.

- b. If a party seeks to amend, modify, annul, or reverse basic findings of fact in its exceptions, that party must request and pay for a transcript to be filed, or the parties may stipulate to portions of the transcript according to the procedure stated in § 40-6-113, C.R.S. If no transcript or stipulation is filed, the Commission is bound by the facts set out by the administrative law judge and the parties cannot challenge these facts. This will limit what the Commission can review if exceptions are filed.
4. If exceptions to this Recommended Decision are filed, they shall not exceed 30 pages in length, unless the Commission for good cause shown permits this limit to be exceeded.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ALENKA HAN

Administrative Law Judge

ATTEST: A TRUE COPY

A handwritten signature in black ink, appearing to read "G. Harris Adams".

G. Harris Adams,
Interim Director