

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO**

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IN THE MATTER OF THE APPLICATION OF)
PUBLIC SERVICE COMPANY OF COLORADO)
FOR APPROVAL OF THE ACQUISITION OF THE)
BRUSH 1, 3, and 4 GENERATION FACILITIES)
AND, IN CONNECTION THEREWITH, THE)
GRANT OF CERTIFICATES OF PUBLIC)
CONVENIENCE AND NECESSITY IF REQUIRED) DOCKET NO. 12A-____
AND THE APPROVAL OF COST RECOVERY)
THROUGH A GENERAL RATE SCHEDULE)
ADJUSTMENT)

**VERIFIED APPLICATION
OF PUBLIC SERVICE COMPANY OF COLORADO**

Public Service Company of Colorado (“Public Service” or the “Company”) hereby applies to the Colorado Public Utilities Commission (“Commission”) for an order approving our acquisition of Brush generating units 1, 3 and 4 in a transaction in which we purchase the entities that currently own these assets. These generating units would thereafter be included in Public Service’s rate base.¹ Collectively Brush 1 and 3 and Brush 4 will be referred to in this Application as the Brush Units.

Brush 1 is a 60 MW combined cycle unit consisting of Westinghouse 251AA Combustion Turbine (“CT”), one Heat Recovery Steam Generator (“HRSG”), and one

¹ Specifically, in the transaction the Company will purchase Brush Power, LLC together with all of its assets and liabilities from Centennial Power LLC., an affiliate of Bicent Power LLC. Brush Power LLC in turn owns subsidiary companies that are the owners of Brush Units 1 and 3 and Brush 4. Exhibit No. KJH-3 provides an organization chart of the selling entities in this transaction. As described in more detail by Mr. Savage in his Direct Testimony, simultaneous with the transfer of Brush Power LLC to Public Service, Brush Power LLC and all the companies it owns, together with their generation assets, will be merged into Public Service.

GE Steam Turbine Generator (“STG”). It began operating in its current configuration in 1990 and Public Service has been purchasing the energy and capacity from the facility under various PPAs since that time. Brush 3 is a 30 MW simple cycle Westinghouse 251AA CT, which began operating in its current configuration in 1999 and Public Service has been purchasing the energy and capacity from the facility under various PPAs since that time. The current PPA covering both Brush 1 and 3 expires in April 2017.

Brush 4 is a 147 MW combined cycle unit consisting of 2 Westinghouse CT’s, 2HRSG’s and 1 GE STG. The CTs began operation in 1999; then in 2002 the plant was converted to a combined-cycle configuration. Public Service has been purchasing the energy and capacity from the facility under various PPAs since it began operation. The current PPA expires in September 2022.

Public Service seeks Commission approval to acquire the Brush Assets by acquiring the limited liability companies that own these facilities² and then by merging these companies into Public Service. The details of the purchase are set forth in the Purchase and Sale Agreement by and between Centennial Power LLC as Seller and Public Service Company of Colorado, as Purchaser (the “Purchase and Sale Agreement”). Centennial Power LLC owns Brush Power LLC and Public Service is proposing to purchase Brush Power LLC and all of its assets and liabilities, including the Brush Assets. The Purchase and Sale Agreement is being presented as an exhibit to the testimony of Karen T. Hyde, which accompanies this Application. As some portions

² Each of these limited liability companies is a special purpose entity; the assets of each company are limited to the generation stations and their related properties and facilities.

of the Purchase and Sale Agreement contain confidential information, we have provided a redacted version with our public filing and include a confidential version for the Commission and those parties who are authorized to review confidential information.

It is not clear under the Commission's Rules whether a certificate of public convenience and necessity is required when a regulated utility purchases existing generation assets. If a CPCN is required, Public Service respectfully requests that the Commission grant the Company a CPCN. This Application provides the necessary information to support that request.

In addition to requesting approval of the acquisition, Public Service also requests approval of a revised General Rate Schedule Adjustment ("GRSA") that will recover the annual retail jurisdictional revenue requirement associated with all of the ongoing ownership costs and non-fuel O&M expenses associated with this purchase, consistent with what is allowed under the Settlement Agreement approved by the Commission in Decision No. C12-0494 (May 9, 2012), issued in Docket No. 11AL-947E, the Company's recent Phase I electric rate case.

Currently both the Brush 1 and 3 PPA and the Brush 4 PPA are tolling agreements under which Public Service buys all gas necessary to fuel the facilities. Public Service will continue to supply gas to the generation facilities and will continue to recover this cost through the ECA. However after the closing, Public Service will no longer be incurring the capacity-related costs currently paid to the facility owners under the PPAs and which are currently being recovered by Public Service through the Purchase Capacity Adjustment Clause ("PCCA"). Therefore simultaneous with the effective date of a GRSA sufficient to recover the annual revenue requirements

associated with the Brush Units, the Company seeks approval to modify the PCCA to eliminate such capacity costs from recovery under the PCCA.

Finally, Public Service respectfully requests that the Commission issue an order authorizing Public Service to create a regulatory asset to amortize and to recover over ten years the acquisition costs associated with this transaction. Under current financial accounting standards, if the Commission does not issue an order that allows these expenses to be amortized for regulatory purposes, Public Service would be required to expense these costs in the years incurred. The current estimate of these acquisition costs (outside legal and accounting fees) is \$380,000. Since under the Settlement Agreement recently approved in Docket No. 11AL-947E Public Service does not anticipate filing another electric rate case until May 2014 at the earliest, to be effective January 1, 2015, unless the Commission issues an order allowing Public Service to amortize and recover these acquisition expenses, the Company would have no way to recover such expenses from its retail customers who will benefit from this transaction.

Accompanying and supporting this Application are the Direct Testimonies and Exhibits of Ms. Karen T. Hyde, Mr. Jim Hill, Ms. Deborah Blair, Mr. Jeffrey Savage, Mr. George Hess, Ms. Lisa Perkett, and Mr. Scott Brockett.

BACKGROUND

The proposed transaction resulted from negotiations initiated by Centennial Power LLC after its parent, Bicent Power LLC filed bankruptcy. While the Brush Units and the limited liability companies that own them were not included in the bankruptcy and Bicent expects to emerge from bankruptcy pursuant to a consensual pre-packaged

plan well before the expected approval of this Application, the bankruptcy precipitated Centennial's approach to the Company.

Centennial proposed the sale to Public Service of both Brush Units 1 and 3 that are subject to a PPA that expires in April 2017 and the sale of the larger 147 MW facility, Brush 4, even though the Brush 4 PPA did not expire until May 2022. As will be described in greater detail below, the purchase price ultimately agreed by the parties is at a level that is advantageous to our retail customers compared with continuing with the existing PPAs.

APPROVAL OF THE PURCHASE AND SALE AGREEMENT

Public Service requests that the Commission approve the transactions contemplated by the Purchase and Sale Agreement. Ms. Hyde describes the structure of the transaction and Mr. Hill outlines our analysis of the cost of the transaction compared to other alternatives and how this transaction fits into our generating portfolio. Mr. Savage and Ms. Perkett address the accounting entries that will be made to acquire the limited liability companies and then merge them in to Public Service. Mr. Hess describes the assets we are purchasing and Ms. Blair and Mr. Brockett detail the proposed ratemaking treatment for this acquisition. As discussed above and in greater detail below, Public Services believes the acquisition of these assets is in the public interest because of the cost savings described in this Application that are expected to accrue to retail customers.

In Public Service's Direct Testimony, we explain our analyses of why we believe the ultimate contract price - \$75 million – is a cost-effective price to pay for these facilities. Additionally, if Public Service does not take ownership of these facilities in

2013, Public Service would have continued to pay for the power from these plants under the existing PPAs. Mr. James Hill shows how the final negotiated purchase price compares favorably with the continued PPA obligations. He also describes how the cost of the Brush Units compares to alternative generation resources using the Company's Strategist modeling program updated for the factors he described in his second supplemental direct testimony filed in our 2011 Electric Resource Plan ("2011 ERP") proceeding contemporaneously with this Application. The 2011 ERP is Docket No. 11A-869E.³

In short, the proposed acquisition of the Brush Assets provides both cost-effective quantitative benefits and qualitative ownership benefits that the Commission previously found to be in the public interest in its Phase I and Phase II Decisions in Docket No. 07A-447E. Public Service respectfully requests the Commission approve this acquisition.⁴

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

Public utilities are required to obtain a certificate of public convenience and necessity prior to beginning the construction of a new facility, plant or system and prior to "extension" of the utility's facility, plant or system. C.R.S. §40-5-101(1). The statute does not require a CPCN to be obtained prior to the purchase of generating facilities.

³ Those updates primarily consist of: 1) Updates to the load forecast; 2) Updates to gas and market prices; 3) PacifiCorp Exchange Agreement Extension; 4) Retirement of Arapahoe 4 at the end of 2013; and 5) New PPA with Southwest Generation for the purchase of the output from Arapahoe Units 5, 6, and 7 for 2014-2023.

⁴ We note that, for accounting purposes, we are required by relevant Federal Energy Regulatory Commission ("FERC") requirements to account for the original cost of the assets, depreciated through the date of the transaction along with required journal entries to reflect the required accounting. To the extent the purchase price differs from the original cost depreciated, that difference is reflected as an acquisition adjustment. As described by Ms. Perkett's testimony, this accounting entry should not be controversial and does not change the proposed ratemaking for these assets.

Commission Rules 3102 through 3104 address the requirement to obtain a CPCN to construct and operate facilities, extend facilities, restrict or curtail or abandon facilities and to obtain a controlling interest in another utility. None of these rules address the specific issue before the Commission in this case —whether a certificate of public convenience and necessity is required to terminate power purchase agreements and obtain ownership of the generation facilities supplying the electric power under those PPAs.

Public Service does not believe that it is necessary for the Commission to rule on whether a CPCN is necessary in this situation because irrespective of whether a CPCN is technically required, Public Service will not proceed with an acquisition of this magnitude without prior Commission approval that this acquisition is in the public interest. Commission approval of this transaction (whether through granting this Application or issuing a CPCN) is a condition to closing on the Purchase and Sale Agreement.

However, if the Commission interprets its rules to require a CPCN in this situation, Public Service respectfully requests that a CPCN be granted. We are providing in support of this Application substantial evidence to support the CPCN grant. As testified by Mr. Hill, this acquisition will save money over the cost of the existing power purchase agreements with respect to these assets, even if those power purchase agreements were to be extended at their existing rates or under current market conditions. The savings accrue to customers as early as 2014. Mr. Hess testifies as to the due diligence undertaken by the Company to assure that the facilities we would be acquiring have been well maintained and are in good condition.

Public Service is requesting approval of the Purchase and Sale Agreement and the transactions contemplated by that agreement. If a CPCN is needed to acquire these facilities, we respectfully request that a CPCN be granted.

COST RECOVERY

Under the Purchase and Sale Agreement, Public Service will be paying \$75 million for these facilities, with an adjustment for the net working capital of the limited liability companies at the time of closing. In addition, as testified by Ms. Deborah Blair, the annual retail revenue requirement associated with the Brush Asset acquisition exceeds \$10,000,000. This generation acquisition thus constitutes a material change in the Company's annual costs triggering the provisions of Section 7.A., Regulatory Adjustments, of the Settlement Agreement approved by the Commission in Docket No. 11AL-947E.

As relevant to this application, Section 7.A. of the Settlement Agreement entered into in Docket No. 11AL-947E provides:

The Settling Parties agree that certain material changes in the Company's forecasted expenses during the term of the MYP that are beyond the Company's control may require adjustment to the Company's GRSA then in effect or may be appropriate for deferral, provided that the change is reasonably expected to increase or decrease the Company's revenue requirement for its electric business by at least \$10 million in that year.

Except to the extent a cost is addressed, more specifically in another Section of this Settlement Agreement, the types of cost changes that would qualify for a Regulatory Adjustment pursuant to this Section include ...[a] Commission-approved asset acquisition or divestiture that exceeds \$50 million.

Consistent with this section of the Settlement Agreement, Public Service is also requesting approval to place into effect a revised GRSA sufficient to recover the

incremental increase in the Company's annual revenue requirement associated with the acquisition of the Brush Units, including, but not limited to all ownership costs and offsets to rate base including, depreciation, property taxes, return on investment the effect of deferred taxes plus ongoing non-fuel operations and maintenance expense. The increase in the GRSA the Company is seeking by this Application will be counterbalanced by the long-term benefits provided to the Public Service system and its retail customers from the acquisition.⁵

Currently Public Service recovers our capacity payments to the owners of the Brush Units under the PPA for Brush 1 and 3 and the PPA for Brush 4 through the PCCA. Simultaneous with the effective date of a revised GRSA sufficient to recover 100 percent of the annual revenue requirement associated with the Brush Units, the Company will file to reduce the PCCA then in effect to reflect the termination of the two PPAs.

In addition, as discussed by Mr. Savage, Public Service would be required to expense the acquisition costs of this transaction in the year incurred without a Commission order allowing cost recovery in later periods. Accordingly we respectfully request that the Commission specifically state that Public Service may recover the acquisition costs of this transaction (primarily outside legal and accounting expense) estimated to be approximately \$380,000 over a ten-year period (\$38,000 per year) commencing and to include the annual amortization expense in the revised GRSA that recovers the costs of the Brush Assets.

⁵ Accompanying this Application, pursuant to C.R.S. §40-3-104 (l)(c)(l)(D), we have included our request to the Commission for approval of an alternative form of notice that will apply to the proposed tariff changes in the GRSA. Under our proposal, the GRSA will increase effective January 1, 2013 (or at the time of closing) and again on January 1, 2014.

RELATIONSHIP OF THIS ACQUISITION TO THE 2011 ERP PLAN

Public Service filed our 2011 ERP in October 2011. The Phase 1 proceeding with respect to the 2011 ERP is pending in Commission Docket No. 11A-869E. While this acquisition of the Brush Units was not sufficiently developed by required filing date of the 2011 ERP, under Commission Rule 3611 (b), Public Service is entitled to propose an “alternative plan for acquiring resources to meet the need specified identified in rule 3610.” Rule 3611(c) requires Public Service to: 1) identify the specific resources that it wishes to acquire, 2) identify the reasons that the specific resource should not be acquired through an all-source competitive acquisition process, and 3) provide a cost-benefit analysis to demonstrate the reasons why the public interest would be served by acquiring the specific resource through an alternative method of acquisition.

As we discussed earlier, contemporaneously with the filing of this Application, Public Service is filing our Second Supplemental Direct Testimony in the 2011 ERP Docket No. 11A-869E. In that filing, the Company provides updates to our demand forecast for the Resource Acquisition Period and changes to the Load and Resources tables that reflect the demand forecast change and other intervening events. The Brush 4 PPA currently extends beyond the Resource Acquisition Period (“RAP”), so replacing a PPA with Public Service ownership does not affect the resource need in the RAP. Since the Brush 1 & 3 PPA would have expired within the Resource Acquisition Period, acquisition of these assets reduces the resource need in the RAP by 78 MW. However, the updated demand forecast predicts an increase in our resource need in 2017 and 2018 (over our initial 2011 ERP filing) of greater than 78 MW. As a consequence, the

acquisition of these Brush Units does not materially change the resource need filed with our 2011 ERP.

In the testimony accompanying this Application, the Company describes the unique situation (parent company bankruptcy) that brought this acquisition to the Company's attention. Public Service has been buying the output from these three generators under a series of power purchase agreements ever since they were placed in service in Colorado. The decision of the parent company to sell the LLCs that own these generation assets provided Public Service the opportunity to gain greater control of these generation units, which units have provided and will continue to provide reliable peaking power to our system. The Company's testimony shows the cost-benefit analyses that were undertaken by Public Service to assure that our purchase of these generation units would create savings for our customers and to assure that purchasing these assets would be in the public interest. As described by Mr. Brockett's testimony, these customer savings last throughout the useful lives of these assets. This acquisition clearly meets the test of a beneficial alternative method of resource acquisition within the meaning of Rule 3611 (c).

ADDITIONAL INFORMATION REQUIRED BY COMMISSION RULE 3002

Name and Address of the Applicant:

Public Service Company of Colorado
1225 17th Street, Suite 1000
Denver, CO 80202-5533

Name Under Which Applicant Provides Service in Colorado. All operations conducted by the Company in Colorado are conducted under the name of Public Service Company of Colorado, under the trade name of Xcel Energy.

Representatives to Whom Inquiries Concerning the Application Should be Made.

Please send copies of all inquiries, notices, pleadings, correspondence, and other documents regarding this filing to:

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Agreement to Comply with 4 CCR 723-3002(b)(IV)-(VI). Public Service has read and agrees to abide by the provisions of subparagraphs (b)(IV) through (VI) of Commission Rule 4 CCR 723-3-3002.

Description of Existing Operations and General Colorado Service Area. Public Service provides electric and gas public utility service in numerous areas throughout the

State of Colorado. The Company also provides steam utility service within the downtown area of Denver. A full listing of Public Service's existing operations and service area is set forth in Public Service's tariffs on file with the Commission.

Location of Hearing. Public Service requests that a hearing on this Verified Application be held at the Commission's offices in Denver, Colorado.

Acknowledgment. Public Service acknowledges that the Company has read and agrees to abide by the provisions of Rule 3002 (b) (XI) (A) through (C).

Verification. Ms. Karen T. Hyde, Vice President, Rates and Regulatory Affairs, states under penalty of perjury that the contents of the Application are true, accurate, and correct to the best of her knowledge. Her affidavit is attached to this Application.

Information Required by Rule 3002(c). Pursuant to Rule 3002(c) of the Commission's Electric Rules, Public Service hereby incorporates by reference the following information, which is on file with the Commission in Docket No. 06M-525EG:

- a. A copy of Public Service's Amended Articles of Incorporation, which was last filed on October 3, 2006;
- b. The name, business address and title of each of Public Service's officers and directors, which was last filed on September 23, 2011;
- c. The names and addresses of affiliated companies that conduct business with Public Service, which was last filed on March 23, 2011;
- d. The name and address of Public Service's agent for service of process, which was last filed on October 3, 2006.
- e. A copy of Public Service's most recent audited balance sheet, income statement, and statement of retained earnings was last filed on April 20, 2012.

CONCLUSION

Public Service Company of Colorado respectfully requests that the Commission grant this Application. Specifically, we request a Commission order:

1) approving the purchase by Public Service of Brush 1 and 3 and Brush 4 under the terms of the Purchase and Sale Agreement;

2) if necessary, granting the Company a CPCN authorizing it to acquire the Brush Assets as set forth above;

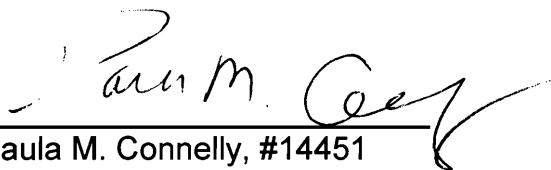
3) approving the placement of the retail jurisdictional portion of the Company's investment in the Brush Assets into rate base through the merger of Brush Power LLC and all of its assets and liabilities into Public Service Company of Colorado, immediately after the closing on the purchase transaction;

4) upon closing of the transaction, authorizing Public Service to increase the GRSA then in effect, consistent with Section 7.A. of the Settlement Agreement approved in Docket No. 11AL-947E, to recover the retail jurisdictional annual revenue requirement associated with the Brush Assets; and

5) authorizing Public Service to create a regulatory asset for the acquisition costs incurred in connection with purchasing the Brush Assets and to amortize and recover such acquisition costs over a ten year period beginning on the effective date of a revised GRSA sufficient to recover the retail jurisdictional revenue requirement associated with the Brush Assets as provided above.

Dated this 5th day of July, 2012.

Respectfully submitted,

By: 

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**Attorneys for Public Service Company
of Colorado**

BEFORE THE PUBLIC UTILITIES COMMISSION
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STATE OF COLORADO)
CITY AND) SS:
COUNTY OF DENVER)

VERIFICATION

I, Karen T. Hyde, being duly sworn, do hereby depose and state that I am Vice President, Rates and Regulatory Affairs - Colorado, Xcel Energy Services Inc., agent for Public Service Company of Colorado, Applicant in the foregoing Application; that I have read the foregoing Application; and that the facts set forth therein are true and correct to the best of my knowledge, information, and belief.

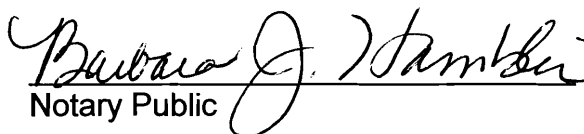


Karen T. Hyde
Vice President
Rates and Regulatory Affairs - Colorado

Subscribed and sworn to before me this 5th day of July, 2012.

My Commission expires:
4/28/2013





Barbara J. Tambini
Notary Public