

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

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**IN THE MATTER OF THE APPLICATION OF THE
CITY OF BOULDER, COLORADO FOR APPROVAL
OF THE PROPOSED TRANSFER OF ASSETS FROM
PUBLIC SERVICE COMPANY OF COLORADO TO
THE CITY AND ASSOCIATED AUTHORIZATIONS
AND RELIEF**

**THIRD SUPPLEMENTAL VERIFIED
APPLICATION OF THE CITY OF
BOULDER, COLORADO**



PROCEEDING NO. 15A-0589E

MAY 12, 2017

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THIRD SUPPLEMENTAL VERIFIED APPLICATION
OF THE CITY OF BOULDER

The City of Boulder, Colorado (the “City” or “Boulder”), pursuant to §§ 40-5-101(b) and 40-5-105, Colorado Revised Statutes, Commission Rule 4 C.C.R 723-3-3104, and Commission Decision Nos. C17-0318-I and C17-0353-I, respectfully submits this Third Supplemental Verified Application (the “Third Supplement”) to the Colorado Public Utilities Commission (the “PUC” or “Commission”) for approval of the transfer of certain assets owned by Public Service Company of Colorado (“PSCo”) to the City that are necessary for the operation of a municipal electric utility pursuant to Article XIII of the Boulder Home Rule Charter, and for associated authorizations and relief described in this Third Supplement.

In this Third Supplement, Boulder has proposed to separate the electric distribution system that serves the City to ensure that the resulting separate systems, one owned by Boulder and serving Boulder customers and the other owned by PSCo and serving PSCo customers, can be operated effectively, safely, and reliably both before separation takes place and thereafter.

One of the cornerstones of the City’s efforts to decentralize, democratize and decarbonize the City’s electric service is that no customer in the remainder of the PSCo system will be harmed as a result of Boulder’s efforts. This means that the customers who remain with PSCo will not have less reliable or costlier service because Boulder leaves the PSCo system. At the same time, the City is charged with ensuring that its own residents and businesses are treated fairly in this process and have electric service that is no less safe, reliable, effective or costly than if they had stayed with PSCo. We believe the Third Supplement will accomplish these goals.

I. SUMMARY OF APPLICATION

A. Phasing

Boulder proposes that this proceeding be divided into four phases. In this Phase 1, the City is asking the Commission to approve: (1) the transfer of the assets Boulder wishes to acquire from PSCo so the City may move forward to condemnation; and (2) Boulder’s plan for separating the electric distribution system that serves Boulder into two systems, one eventually owned and operated by Boulder’s new electric utility and one owned and operated by PSCo (the “Separation Plan”). Boulder’s request in Phase 1 also includes several orders that will ensure the Commission’s continued jurisdiction over the assets until PSCo no longer provides retail electric service within the City’s jurisdictional boundaries (the “City Limits”).¹ It is important to note that, under Boulder’s proposed path forward, PSCo will continue to own and operate the electric distribution system that serves City customers until the Cut-Over Date.

Provided the Commission grants Boulder’s requests for those orders, Boulder will return to the Commission in Phase 2 for approval of: (1) detailed design drawings and specifications

¹ As explained below, Boulder will only provide service within the City Limits, but Boulder does propose that PSCo continue to serve two City-owned properties located within the City Limits.

consistent with the Separation Plan approved in Phase 1; (2) the bid for the construction/reconfiguration work necessary to implement the Separation Plan; and (3) an estimated construction timeline. This phase may also include certain financial considerations, as described below. Boulder currently estimates that Phase 2 will occur at the same time as the condemnation proceeding in Boulder District Court.²

Under Boulder's proposed path, once Phase 2 of this proceeding and the condemnation case have each concluded, and prior to the beginning of the construction/reconfiguration of the system, the City will determine whether the cost of acquisition and separation and other start-up costs are of such a magnitude that Boulder will not proceed. This "Go/No-Go Decision" will occur prior to the time significant sums are incurred by the City for separation of the system, thereby reducing the financial risk to Boulder customers and preventing the economic waste and community disruption of construction that would prove ultimately unnecessary.

If Boulder elects to proceed forward, Phase 3 is proposed to commence several months after construction on the Separation Plan has begun and will involve matters related to the transition to service by a new electric utility. This will include consideration and approval of a "Cut-Over Plan" to ensure a seamless and transparent transition from service by PSCo to service by the Boulder electric utility as of the date, after the separation of the system is complete, that Boulder takes title and possession of the electric distribution system and begins operating the system (the "Cut-Over Date"). Included in Phase 3 will be the exchange of information necessary to allow Boulder to begin operations, a request for the waiver of certain of the

² Boulder will proceed to condemnation if the parties are unable to reach a negotiated price for Boulder's acquisition of the electric distribution system that serves the City.

Commission's Data Privacy Rules, and the Cut-Over Plan itself. These phases are discussed below in more detail.

Boulder expects that the second and third phases of this proceeding will be initiated by a joint filing by Boulder and PSCo (Boulder's preference) or a filing by Boulder individually. Boulder further expects that future phases may require additional notice and possibly intervention periods if the Commission so decides, and that the parties to this proceeding will continue to be eligible to participate as parties in the next phases.

Phase 4, Boulder proposes, will be a compliance filing, at which time Boulder would notify the Commission: (i) that the construction has been completed to permit operation of the existing system as two separate, independent systems; and (ii) of the final amount of the actually- and prudently-incurred costs incurred by PSCo for the separation/reconfiguration of its system, plus interest calculated at PSCo's WACC, that have been tracked in the regulatory asset for payment by the City to PSCo prior to the actual transfer of the assets.

Boulder also anticipates returning to the Commission in the future - in a separate proceeding - regarding its proposed gradual departure from PSCo as the City's incumbent provider of electric energy, but will not make a request of the Commission concerning PSCo's provision of generation services in this proceeding.

The timing of the four phases is reflected in the chart below:

TIMELINE FOR MUNICIPALIZATION ACTIVITIES³

| <u>ISSUE</u> | <u>PROCEEDING OR ACTIVITY</u> | 2017 | | | | 2018 | | | | 2019 | | | | 2020 | | | | 2021 | 2022 |
|---------------------------------|---|----------------|----------|----------|----------|----------------|----------|----------|----------|----------------|----------|----------|----------|----------------|----------|----------|----------|-------------|-------------|
| | | QUARTER | | | | QUARTER | | | | QUARTER | | | | QUARTER | | | | | |
| | | 1 | 2 | 3 | 4 | | |
| Assets and Separation | <u>Phase 1:</u> Approval of: Asset Transfer Separation Plan | | | | | | | | | | | | | | | | | | |
| | PSCo develops: Detailed design drawings and specifications for separation outside substations; ⁴ Bids for separation/ reconfiguration construction Projected construction schedule | | | | | | | | | | | | | | | | | | |
| | <u>Phase 2:</u> Approval of: Detailed design drawings and specifications for separation outside substations; Bids for separation/ reconfiguration construction Projected construction timeline | | | | | | | | | | | | | | | | | | |
| <u>GO/NO-GO DECISION</u> | | | | | | | | | | | | | | | | | | | |
| <u>CUT-OVER DATE</u> | | | | | | | | | | | | | | | | | | | |

³ Timeframes are estimates based on the best data currently available.

⁴ With regard to the substations, Boulder will make a request for Network Transmission Interconnection Service and PSCo will process that request pursuant to its requirements under its Open Access Transmission Tariff (“OATT”). This process is expected to take 6-9 months. Thereafter, PSCo and Boulder, along with Tri-State and IBM, as applicable, will develop the detailed design drawings and specifications for work in substations in accordance with the designs approved through the OATT process.

| ISSUE | PROCEEDING OR ACTIVITY | 2017 | | | | 2018 | | | | 2019 | | | | 2020 | | | | 2021 | 2022 |
|-------|--|---------|---|---|---|---------|---|---|---|---------|---|---|---|---------|---|---|---|------|------|
| | | QUARTER | | | | QUARTER | | | | QUARTER | | | | QUARTER | | | | | |
| | | 1 | 2 | 3 | 4 | 1 | 2 | 3 | 4 | 1 | 2 | 3 | 4 | 1 | 2 | 3 | 4 | | |
| | District Court Condemnation | | | | | | | | | | | | | | | | | | |
| | PSCo performs construction/reconfiguration | | | | | | | | | | | | | | | | | | |
| | PSCo and City negotiate Cut-Over Plan | | | | | | | | | | | | | | | | | | |
| | Phase 3: Approval of: Information exchange; Data Privacy Rule Waiver Cut-Over Plan | | | | | | | | | | | | | | | | | | |
| | City undertakes transition and start up activities | | | | | | | | | | | | | | | | | | |
| | Phase 4: Compliance Filing to Notify Commission of: Completion of Separation Plan construction; Final payment amount | | | | | | | | | | | | | | | | | | |
| | CITY BEGINS OPERATING MUNICIPAL ELECTRIC UTILITY | | | | | | | | | | | | | | | | | | |

GO/NO-GO DECISION

CUT-OVER DATE

CUT-OVER DATE

The steps Boulder proposes for transitioning to a municipal electric utility, depicted in the timeline above, include:

1. In Phase 1, the Commission approves the assets that may be transferred by PSCo and the Separation Plan.
2. Based on the Commission's direction and order in Phase 1, PSCo, in consultation with City engineers, contracts with third-party engineers to complete the final design for the Separation Plan, including detailed design drawings and specifications for the facilities located outside substations and the bid package, solicits bids from contractors for the necessary construction work, and develops an estimated timeline for the separation.
3. The City and PSCo jointly return to the Commission in Phase 2 of this proceeding for approval of detailed design drawings and specifications for facilities located outside substations, as well as the bid and timeline for the separation construction/reconfiguration work. As noted above, Boulder expects that the parties to this proceeding will continue to be eligible to participate as parties in this phase, as well.
4. The City acquires the assets it needs that are approved by the Commission for transfer, in accordance with Colorado law, which could be by negotiation or condemnation. By agreement of the Parties, included in the Commission's order in this proceeding, PSCo agrees to defer payment of the valuation award, and the City agrees to defer its request for issuance of the Rule and Order until after completion of Separation Plan construction/reconfiguration.

5. At the conclusion of the condemnation case and Phase 2 of this proceeding, Boulder determines whether to proceed with municipalization. If it determines not to do so, no further action is taken. This step requires a “Go/No-Go” decision of the City. If Boulder does not move forward with municipalization, it compensates PSCo for the design/cost estimate work by third parties on behalf of PSCo, included in Step 2, above.
6. If Boulder decides to move forward with municipalization, then consistent with the Commission’s order in Phase 1, PSCo’s third-party contractor in coordination with the City constructs any new facilities and engages in any reconfiguration necessary in conformance with the detailed design drawings and specifications for the Separation Plan approved by the Commission in Step 2 and creates a regulatory asset to track all costs associated with these activities, consistent with the protections presented herein and in Boulder’s testimony.
7. At the same time, Boulder and PSCo begin to negotiate a Cut-Over Plan.
8. Boulder and PSCo jointly return to the Commission for Phase 3 of this proceeding, seeking the Commission’s approval for the sharing of information regarding the electric distribution system and customer data, the waiver of certain of the Commission’s Data Privacy Rules necessary to effectuate that transfer of information, and the Cut-Over Plan.
9. Boulder undertakes transition and start up activities.
10. When construction/reconfiguration is complete, Boulder returns to the Commission in Phase 4 of this proceeding, which Boulder proposes be a compliance filing. In Phase 4, Boulder would notify the Commission: (i) that the

construction has been completed to permit operation of the existing system as two separate, independent systems; and (ii) of the final amount of the actually- and prudently-incurred costs incurred by PSCo for the separation/reconfiguration of its system, plus interest calculated at PSCo's WACC, that have been tracked in the regulatory asset for payment by the City to PSCo prior to the actual transfer of the assets.

11. When Phase 4 has concluded, Boulder pays the condemnation award and the separation/reconfiguration costs incurred by PSCo, the Court issues the Rule and Order transferring title and possession of the separated Boulder system to Boulder, the Boulder system would then "cut-over" to Boulder.
12. Boulder begins to operate its municipal electric utility.

B. Phase 1

1. The Assets For Transfer

Boulder is requesting that the Commission approve the transfer by PSCo of the portion of the distribution facilities and associated property interests that will serve only City customers following the completion of the Separation Plan (the "Assets for Transfer"). Boulder is not seeking the transfer of generation assets or transmission assets nor is Boulder seeking to acquire assets used exclusively to serve PSCo customers. Further, Boulder is not seeking to serve any customers located outside Boulder's jurisdictional boundaries (the "City Limits") in unincorporated Boulder County. Rather, Boulder's request includes only the electric distribution facilities and real property interests necessary for the new electric utility to serve its customers located within the City Limits. Some of the Assets for Transfer that are necessary to serve customers within the City are located outside the City Limits and Boulder seeks the

Commission's transfer approval for those assets, as well; however, to be clear, these are not facilities or real property interests that PSCo will use to serve PSCo customers who are located outside the City once the two distribution systems are separated. Notably, there are two City-owned properties within the City Limits that the City is proposing that PSCo continue to serve: the facilities at Boulder Reservoir on the northern edge of the City Limits and the Open Space and Mountain Parks Department facilities located at Cherryvale Road and South Boulder Road on the southeastern edge of the City Limits. While Boulder would like to be able to provide electric service to all City-owned properties, the significant cost for the City to provide electric service to those two facilities is not cost effective at this time.

The City is not seeking authority to transfer any other assets, including any PSCo generation assets, PSCo transmission assets, PSCo's certificate of public convenience and necessity ("CPCN"), goodwill, consulting agreements, brands, advertising, or employees.

2. The Separation Plan

Boulder has developed and offers for the Commission's consideration a Separation Plan that will permit the City to provide electric service to its future customers within the City Limits with City-owned facilities and PSCo to provide electric service to its customers in the unincorporated county with PSCo-owned facilities while maintaining or improving existing capacity and voltage performance. Boulder requests that in Phase 1 of this proceeding the Commission approve the proposed Separation Plan that identifies the construction of new facilities and reconfiguration of existing facilities and real property interests that will be necessary for the existing system to ultimately operate as two separate systems.

In developing the Separation Plan, Boulder focused on two distinctly different plans: a plan that would physically separate the two systems, but would require PSCo and the City to

provide backup service to each other in case of system failure (the “EB Plan”) and a plan that includes no distribution interconnection between the PSCo and Boulder systems (the “NDI Plan”). Boulder engineered both approaches to a planning level of engineering (a mid-level design with much greater detail than conceptual design, but less detail than the final design level), but as the City reviewed each plan, it determined that in all but one area of the City, the NDI Plan was the superior plan despite having higher costs. Boulder then proceeded to use the Synergi model to test system performance in terms of capacity and voltage performance for the NDI plan and the EB plan for Area One. Boulder has fully vetted the NDI Plan for the entire city, as well as the EB Plan in one area of the City where new construction needed to serve just eight PSCo customers would cost over \$1,100,000.

Having performed that analysis, Boulder’s preferred plan is generally the NDI plan. However, in the one area in which the EB Plan is presented, while either plan is acceptable to Boulder, the City requests that the Commission consider the EB Plan in that area. The Direct Testimony of Thomas A. Ghidossi includes Highly Confidential Attachment TAG-5, the Technical Volume, which includes the heat maps that show the effect on capacity and voltage performance for the electric distribution system’s current configuration for the NDI Plan, and for the EB Plan in one area of the City.

3. Dispute Resolution

Boulder is proposing that any disputes that arise between PSCo and the City prior to the Cut-Over Date that concern matters within the jurisdiction of the Commission, shall be resolved expeditiously within this proceeding by bringing such dispute to the Commission, or if the Commission prefers to a Commission-appointed Administrative Law Judge.

4. The Phase 1 Request

In this Phase 1, Boulder respectfully requests that the Commission issue an Order granting the Third Supplement and approving (1) the City's designation of the Assets for Transfer; and (2) Boulder's Separation Plan, finding that the Separation Plan, when constructed, will result in PSCo having a distribution system that is as effective, reliable, and safe as the current system that serves the PSCo customers outside of Boulder. Boulder requests that in its order in this Phase 1, the Commission order:

- PSCo, in collaboration with the City's engineers, to: (1) select a third-party engineer(s), acceptable to the City, to develop detailed design drawings and specifications for the Separation Plan; (2) develop a cost estimate and bid package, and solicit bids, for the construction/reconfiguration work; and (3) develop a preliminary schedule for the construction/reconfiguration work, all of which will be submitted to the Commission for approval in Phase 2;
- PSCo to continue to own, possess, operate, maintain, and improve the electric distribution system in Boulder until the Cut-Over Date, thereby eliminating any impact to customers in the interim period and permitting PSCo to continue to receive the benefits and obligations of ownership until the Cut-Over Date;
- PSCo to enter into an agreement with Boulder that provides that: (1) the payment of the condemnation court's valuation award shall be deferred until after construction of the Separation Plan is complete; (2) there shall be no interest paid on such deferred amounts; and (3) the entry of the Rule and Order shall be delayed until the systems are fully separated;
- PSCo to: (1) construct the facilities necessary to implement the Separation Plan; and (2) track, in a regulatory asset, the costs related to the development of detailed design

drawings and specifications, a cost estimate and bid package, and a preliminary schedule for the construction/reconfiguration work; the solicitation of bids; and the construction of the facilities necessary to implement the Separation Plan, subject to the following conditions:

- (i) PSCo to provide the City a confidential detailed cost estimate, within +/- 20 percent accuracy, consistent with its budgeting practices for the separation and construction costs;
- (ii) a proposed schedule for the milestones to be completed;
- (iii) PSCo to competitively bid the construction work to be done in order to inform the confidential cost estimate;
- (iv) PSCo to provide regular reports that track both PSCo's costs as they are incurred, relative to the estimated costs, as well as PSCo's progress with respect to the proposed schedule, including explanation of any material deviations, unforeseen delays, or issues; and
- (v) Boulder to reimburse PSCo only for those actually- and prudently-incurred costs, as determined by the Commission;
- Boulder to pay the costs accounted for in the regulatory asset, with interest accruing at PSCo's Weighted Average Cost of Capital ("WACC"), when the systems are fully separated; and
- Boulder and PSCo to submit to the Commission, or if the Commission prefers, to a Commission-appointed Administrative Law Judge, any disputes that arise between

PSCo and Boulder prior to the Cut-Over Date that concern matters within the jurisdiction of the Commission.

II. BOULDER'S QUALIFICATIONS

A. Overview of Boulder City Government

Boulder was incorporated on November 4, 1871. It is a Colorado home rule municipality, established pursuant to Article XX of the Colorado Constitution. The Charter of the City of Boulder, Colorado, adopted by a vote of the electorate on October 30, 1917, serves as the source of the City's authority and can only be amended by a vote of the Boulder electorate. Under both the state constitution and the Boulder Home Rule Charter, the City has the authority to, among other things, acquire, maintain, and operate light plants, power plants, and any other public utilities or works local in use and extent. *See* Colorado Constitution, art. XX, §§ 1 and 6, and Boulder Home Rule Charter Section 2(d), provided as **Attachments 1 and 2**, respectively for the full text.

1. City Council

Boulder has a Council-Manager form of government, which has been in continuous operation since January 1918. Under this form of government, the elected City Council sets the policies for the operation of the Boulder government. The administrative responsibility of the City rests with the City Manager, who is appointed by the City Council. The City Council consists of nine members. The Mayor and Mayor Pro Tem are selected by the council members. The current Mayor is Suzanne Jones. The current Mayor Pro Tem is Andrew Shoemaker. Other council members include, Matt Appelbaum, Aaron Brockett, Jan Burton, Lisa Morzel, Sam Weaver, Bob Yates, and Mary Young.

Boulder conducts its general elections on the first Tuesday in November of odd numbered years. All City elections are administered by the City Clerk.

Nine council members are elected at-large on a non-partisan basis for two- and four-year terms. After each election, council members select one of their members to serve a two-year term as mayor. Every two years (odd-numbered years), five council members are elected to office. The four candidates receiving the most votes serve four-year terms and the candidate with the next highest number of votes serves a two-year term.

City Council appoints and sets salaries for its three direct reports, the City Manager, the City Attorney and the municipal judge.

Council meets regularly on the first and third Tuesday of each month at 6 p.m. in the Council Chambers of the Municipal Building. All City Council meetings are open to the public.

2. City Manager

The City Manager is hired by council to handle the affairs of the City in accordance with the policies set by City Council. The position is structured so all department heads are directly or indirectly (through the Assistant City Manager or Deputy City Manager) responsible to the City Manager. The City Manager is the City's Chief administrative officer. The current City Manager is Jane S. Brautigam. There are separate departments within the City, administered by department heads who are hired by the City Manager. The City's current organization chart is provided as **Attachment 3**.

3. Boards and Commissions

Boulder has 21 boards and commissions. The members of these boards and commissions advise the City Council with regard to a variety of matters including planning,

historic preservation, liquor licensing, human relations, environmental matters, the City's libraries, water resources and transportation.

B. Management and Employees

Boulder employs 1487 standard and temporary employees and another 928 seasonal employees. Of those, 687 are members of collective bargaining units. The following unions negotiate contracts on behalf of those collective bargaining units: Boulder Municipal Employees Association, the International Association of Fire Fighters, and the Boulder Police Officers Association.

C. Financial Strength

According to the City's most recent audited financials, total primary government assets (including current and other assets and capital assets) for the City totaled \$1.453 billion. Total revenues, excluding transfers and extraordinary items, increased from 2014 to 2015 by \$20.1 million, or 6.6%, to \$324.4 million. Sales and use tax revenues constituted 49% of the City's General Fund. The assessed valuation for property within the City, which was \$2.599 billion in 2014, grew to \$3.160 billion in 2015.

The General Fund is the primary operating fund of the City. At the end of 2015, the unrestricted fund balance of the General Fund as \$52.1 million, while the total fund balance was \$54.6 million. Unrestricted fund balance includes fund balance committed by City Council, assigned by City management, and unassigned fund balance as disclosed in the Governmental Fund Balance Sheet. As a measure of the General Fund's liquidity, it is useful to compare unassigned fund balance to total fund expenditures and transfers out. For 2013, unassigned fund balance of \$42.7 million represents 35% of total General Fund expenditures and transfer out of \$120.3 million.

As of December 31, 2015, the unrestricted net position of the Water Utility Fund was \$27.6 million, the Wastewater Utility Fund was \$11.4 million, the Stormwater and Flood Management Fund was \$16.7 million, the Downtown Commercial District Fund was \$6.7 million, the non-major enterprise funds were \$1.0 million. The total increase in net position for the proprietary funds was \$27.2 million.

During 2015, the City's general obligation credit ratings were established as Aa1 by Moody's Investors Service and AAA by Standard & Poor's. The primary reasons cited in the past for these high rating levels have been the general strength of the Boulder economy, its distinctiveness from the general Denver metropolitan economy, and the lesser reliance of the City's General Fund on sales taxes when compared with other Colorado municipalities.

III. DESCRIPTION OF ASSETS FOR TRANSFER

The Assets for Transfer include the electric distribution property, plant, and equipment used, in whole or in part, to serve electric customers within the City of Boulder whether located within or outside the City limits, including overhead and underground distribution lines; distribution transformers (pole and pad mount); overhead and underground secondary and service conductors; fiber optic and other communications equipment associated with the distribution system; meters and other equipment; easements and associated property rights for the electric distribution system. The Assets for Transfer also include streetlights and traffic signal lights owned by PSCo within the City Limits. Finally, the Assets for Transfer also include electric property, plant, and equipment located in the substations that serve customers within the City including protective equipment on the high voltage side of transformers (including relaying, communications, and control equipment), power transformers, and distribution switchgear and easements for City equipment and access. Some of the Assets for Transfer that are necessary to

serve customers within the City are located outside the City Limits; however, these are not facilities or real property interests that PSCo will use to serve PSCo customers who are located outside the City once the two distribution systems are fully separated.

The City is not seeking authority to transfer any other assets, including any PSCo generation assets, PSCo transmission assets, PSCo's CPCN, goodwill, consulting agreements, brands, advertising, or employees.

A. Substations

The assets for which the City is requesting transfer approval for Substations A, B, C, D, E and F are those existing facilities and associated appurtenances shown in blue and identified as Boulder's on Highly Confidential TAG-6, 7, 8, 9, 10 and 11. Highly Confidential Attachments TAG-6 through TAG-11 show each piece of equipment and the land color-coded and labeled to show which equipment exists and which is new, which will be owned by PSCo and which will be owned by the City, and the access and equipment easements the City will have after separation based on the City's Separation Plan. Those attachments also show in color the easements within each substation the City is asking for approval for transfer to locate Boulder facilities, and show in color the access easements the City is requesting approval for transfer. The City is not requesting any ownership of any real property within the substations. The Assets for Transfer within the substations are also separately identified on the GIS Portion of the Boulder Separation Model found in Highly Confidential Attachment SDC-6. These facilities are also identified individually in Attachment SDC-7 and Highly Confidential Attachment SDC-8.

B. Assets for Transfer Outside of Substations

For the distribution feeder systems, Attachment TAG-5, Volume I, page 9, depicts the name and location of every distribution feeder system in the Boulder area following the implementation of the Separation Plan:

- Attachment TAG-5, Volume I, page 10 depicts the name and location of each distribution feeder system that would remain with PSCo following separation.
- Attachment TAG-5, Volume I, page 11 depicts the name and location of each distribution feeder system that Boulder requests be transferred following separation.
- Highly Confidential Attachment SDC-8 provides a detailed breakdown of the type and number of each kind of equipment from the feeders depicted in Highly Confidential Attachment SDC-6 and Attachment TAG-5 and the substations depicted in Highly Confidential Attachments TAG-6 through TAG-11.
- Figure 5 in Mr. Ghidossi's Testimony shows all of the feeders (both existing and new) that will be owned by the PSCo after separation with the feeders located inside the City boundaries shown in orange and the feeders located outside the City boundaries shown in purple.
- Figure 6 in Mr. Ghidossi's Testimony shows all of the feeders (both existing and new) that will be owned by the City after separation with the feeders located inside the City boundaries shown in orange and the feeders located outside the City boundaries shown in green.
- Finally, Highly Confidential Attachment SDC-8 provides a complete list aggregating all of the Assets for Transfer and provides all of the information Boulder has about each and every one of those assets in a single electronic file. This is an extensive electronic file. The public version of that attachment is Attachment SDC-7.

IV. THE SEPARATION PLAN

The Separation Plan is described in the Direct Testimonies of Boulder witnesses Thomas A. Ghidossi and Steven D. Catanach. The City requests that the Commission approve the Separation Plan, which will result in the division of the existing facilities and new construction to enable the City to serve its future customers within the City Limits with City-owned facilities and PSCo to serve its customers with PSCo-owned facilities. However, there are two City-owned properties within the City Limits that the City is proposing PSCo continue to serve: the facilities at Boulder Reservoir on the northern edge of the City Limits and the Open Space and Mountain Parks Department facilities located at Cherryvale Road and South Boulder Road on the southeastern edge of the City Limits.

Boulder initially analyzed several different approaches to separating a future Boulder electric distribution system from the PSCo electric distribution system. These included two approaches, which the City refers to as the Emergency Backup plan (the “EB Plan”) and the No Distribution Interconnection plan (the “NDI Plan”). The EB Plan would physically separate the two systems, but require PSCo and the City to provide backup service to each other in case of system failure. This plan involves significantly less construction and cost. The NDI Plan includes no distribution interconnection between the PSCo and Boulder systems. Any backup required by either system is provided by that system; there is no connection between the two systems at the distribution level. Neither Plan includes the sharing of facilities beyond poles, or co-location except in substations.

Boulder engineered both approaches to a planning level of engineering, but as it reviewed each plan, determined that in all but one area of the City, the NDI Plan was the superior plan despite having higher costs. Boulder then proceeded to perform reliability tests on that plan.

Boulder has fully vetted the NDI Plan for the entire city, as well as the EB Plan in one area of the city where new construction needed to serve just eight PSCo customers would cost over \$1,100,000. Having performed that analysis, Boulder's preferred plan is generally the NDI Plan. However, in the one area in which the EB Plan is presented, while either Plan is acceptable to Boulder, the City requests that the Commission consider the EB Plan in that area. The Direct Testimony of Thomas A. Ghidossi includes Attachment TAG-5, the "Technical Volume," which includes the heat maps that show the effect on capacity and voltage performance of each feeder, for the NDI Plan, and for the EB Plan in one area of the City.

The Separation Plan has been developed such that PSCo's network following separation can be operated to serve PSCo's customers in an effective, reliable, and safe manner.⁵ Specifically, the Separation Plan, if implemented as proposed, is intended to result in a PSCo network to serve out-of-City customers that (a) is as safe to operate as PSCo's current network and (b) will maintain, if not increase, reliability as compared to PSCo's current network. Further, the Separation Plan is designed such that the resulting PSCo network will have a similar or fewer miles of distribution lines needed to serve PSCo's out-of-City customers such that there will be no material change in PSCo's operations and maintenance costs associated with the lines needed to serve those customers.

The Separation Plan as presented has been developed to a "planning" level of engineering (a mid-level design with much greater detail than conceptual design, but less detail than the final design level). Once the Separation Plan is approved by the Commission, the engineers will proceed to the final design to create the package of designs and instructions that will be used to

⁵ At times the Commission uses the term "adequate" in lieu of "effective." As explained by Messrs. Ghidossi and Catanach, they consider those terms as generally comparable from an engineering perspective and that the system post-separation will be both adequate and effective.

obtain construction bids and implement the Separation Plan. Because the Separation Plan consists of modifications to PSCo's existing electric distribution system, Boulder is proposing that the final design-level engineering plans be developed by a third-party contractor acceptable to the City, but retained by PSCo. Those plans will be consistent with Separation Plan approved by the Commission and, prior to construction, will be approved by the Commission in Phase 2.

V. THE PATH FORWARD

A. Development of Detailed Design Drawings and Specifications

Immediately following the Commission's decision approving the transfer of assets and Separation Plan, Boulder proposes that PSCo select a third-party engineering firm, acceptable to the City (such as those on PSCo's pre-approved list of engineering firms) to develop detailed design drawings and specifications for completing the construction/reconfiguration necessary to effectuate the Separation Plan for those facilities located outside the substations, as well as the bid package to solicit bids and a time estimate for construction.

It should be noted that the final configuration of the facilities located inside substations is under the jurisdiction of the Federal Energy Regulatory Commission ("FERC"). Boulder will make a request for Network Transmission Interconnection Service and PSCo will process that request pursuant to its requirements under its Open Access Transmission Tariff ("OATT"). This process is expected to take 6-9 months. Thereafter, PSCo and Boulder, along with Tri-State and IBM, as applicable, will develop the detailed design drawings and specifications for work in substations in accordance with the configurations approved through the OATT process.

B. Phase 2

Phase 2 of this proceeding involves the Commission's consideration and approval of the detailed design drawings and specifications, construction bid and construction timeline to

complete the construction/reconfiguration for distribution facilities located outside substations. In the event the Commission is not inclined to order PSCo to create a regulatory asset in this proceeding, the City proposes that determination of the appropriate funding mechanism for the construction, separation and integration activities be addressed at the same time as the cost estimate is provided in connection with the detailed design drawings and specifications, *i.e.*, in Phase 2. This will permit Boulder to assess which funding mechanism is most appropriate depending on the estimated costs involved and the timeline for the incurrence of those costs.

C. Condemnation

At the same time Phase 2 is filed with the Commission, Boulder will attempt to acquire the assets from PSCo by negotiation, or if unsuccessful, file the condemnation case to acquire the assets approved by the Commission for transfer in Phase 1. It is estimated that that proceeding in Boulder District Court will take 12 to 18 months to complete.

D. The Go/No-Go Decision

Once Phase 2 and the condemnation proceeding have concluded, Boulder will know the amount to acquire the facilities and construct the Separation Plan. Armed with this information, the City will determine, prior to the beginning of any construction/reconfiguration of the system, whether it can move forward with municipalization. This Go/No-Go Decision point would occur prior to the time significant sums were incurred by the City for separation of the system, thereby reducing the financial risk to Boulder customers and preventing the economic waste and community disruption of construction that would prove ultimately unnecessary.

E. Construction/Reconfiguration of the PSCo System

The Separation Plan includes significant new construction/reconfiguration of the current PSCo system necessary to separate that system into one owned and operated by Boulder and

serving Boulder customers and one owned and operated by PSCo and serving PSCo customers. Boulder is proposing that PSCo be responsible for the construction and reconfiguration of its system necessary to implement the Separation Plan. All construction and reconfiguration will be consistent with the approved Separation Plan and performed at the City's cost and expense. The firm(s) that submitted the construction bid proposed by PSCo and Boulder for approval by the Commission in Phase 2 will perform all construction/reconfiguration in a manner consistent with the National Electrical Safety Code, electric distribution standards and area engineering standards, as well as other applicable industry standards. Boulder is not proposing it operate any facilities before the Cut-Over Date. However, PSCo may test, energize and use those facilities as the operator of the system. Prior to construction commencing, the City and PSCo will need to establish an agreement detailing how the project(s) will be managed and who will have responsibility for certain tasks. Controls and metrics related to the cost, quality and timeliness of construction, along with incentives and penalties (if the City has the ability to offer incentives), should be defined. The final design plans, cost estimate and construction timeline would then be submitted to the Commission for its consideration and approval.

F. Transitioning Operations to a Municipal Electric Utility

During the transition period, that is, the period between the Commission's order in Phase 1 and the Cut-Over Date, PSCo will continue to own and operate the system, provide retail electric service to its Boulder customers, and perform any necessary construction of new facilities/reconfiguration of its system necessary to effectuate the Separation Plan. To transition from PSCo's providing retail electric service to its customers in Boulder to the City's providing retail electric service to its residents and businesses, Boulder proposes that, upon the City's Go/No-Go decision to continue with municipalization, it begin to negotiate with PSCo a "Cut-

Over Agreement,” designed to make the transfer as transparent to customers as possible. The Cut-Over Agreement would likely be a series of agreements that address such matters as the joint use of poles, including the amount of payments by the City to PSCo; an operational agreement for the two points of interconnection in in Area 1; hazard identification and communication agreement; an agreement concerning the transfer of responsibility for billing and customer service; an agreement regarding information exchange; and agreements regarding any other matters.

G. Phase 3

The negotiated Cut-Over Agreement will be submitted to the Commission for its consideration and approval in Phase 3. Given the timing of Boulder’s need for customer information under the path proposed by the City, Phase 3 will include a request for approval of an information exchange, and a request for the waiver of certain of the Commission’s Data Privacy Rules to enable Boulder to obtain the information it needs to begin to serve its retail electric customers, such as usage data (both current and historical), payment history, deposits/credits, and participation in distributed energy and/or demand side management programs. The sharing of customer data would not take place until post-Phase 3, well after the Go/No-Go Decision.

H. Transition and Start Up Activities

Following the Commission’s approval of the Cut-Over Plan, in the estimated 18 months prior to the Cut-Over Date, Boulder will finalize its transition and start up activity plans, including but not limited to:

- engaging a third party to operate the distribution system;

- developing call center operational guidelines, scripts and metrics necessary to ensure a smooth transition and potentially hiring a third party to operate the call center;
- developing meter reading;
- developing open energy information standards and specifications (such as Green Button);
- developing field area network specifications;
- developing outage reporting systems;
- developing a billing system and obtaining the necessary information to populate the systems fields;
- developing, testing, and integrating utility systems (SCADA, operations, maintenance, and mapping systems);
- preparing other customer service programs;
- developing a rate structure;
- developing policies regarding distributed generation; and
- developing a vegetation management plan.

While these activities are crucial to the success of Boulder's new municipal electric utility, because Boulder will not be a utility regulated by the Commission, Boulder will not be seeking the Commission's approval of any of these plans or activities.

I. Phase 4

Boulder proposes that Phase 4 be a compliance filing, at which time Boulder would notify the Commission (i) that the construction has been completed to permit operation of the existing system as two separate, independent systems; and (ii) of the final amount of the actually-

and prudently-incurred costs incurred by PSCo for the separation/reconfiguration of its system, plus interest calculated at PSCo's WACC, that have been tracked in the regulatory asset for payment by the City to PSCo prior to the actual transfer of the assets.

J. The Regulatory Asset

Because PSCo will continue to own and operate the electric distribution system that serves Boulder until the Cut-Over Date, Boulder proposes that the costs PSCo incurs in effectuating the Commission-approved Separation Plan, as well as its costs related to the design drawings and specifications, bid solicitation and development of the preliminary schedule for construction/reconfiguration work, be tracked in a regulatory asset, as discussed above, until the Cut-Over Date. Upon the completion of the separation/reconfiguration, Boulder would pay the separation/reconfiguration costs with accumulated interest at PSCo's WACC, as well as the condemnation award; the Rule and Order would issue transferring title of the City's system to Boulder, a clean cut-over in retail electric service would occur, and Boulder would begin to provide retail electric service within the City Limits.

In the event the Commission is not inclined to order PSCo to create a regulatory asset in this proceeding, the City proposes that determination of the appropriate funding mechanism for the construction, separation and integration activities be addressed in Phase 2, when the bid for the construction/reconfiguration work is presented to the Commission for approval. This will permit Boulder to assess which funding mechanism is most appropriate depending on the estimated costs involved and the timeline for incurring those costs.

K. Impact on PSCo and Its Remaining Ratepayers

As the City proposes, PSCo would be kept whole during this period before the Cut-Over Date as it would continue to both own and operate the interconnected systems until the two

distribution systems are completely separated. As the owner of the facilities, PSCo would continue to have the opportunity to earn its authorized Return on Equity on the assets to be transferred until the Rule and Order issued on the Cut-Over Date. Further, customers within the City Limits would remain PSCo customers until the Cut-Over Date and PSCo would continue to receive any profit associated with that service.

Boulder recognizes that this Commission is charged with ensuring the safety and reliability of the electric grid in Colorado and approving only those applications that come before it that are not contrary to the public interest through the review of safety, reliability and service quality issues. For all the reasons provided in this Third Supplement and the testimony filed in support, the relief requested in the Third Supplement is not contrary to the public interest.

L. The Commission's Retained Jurisdiction

To ensure the Commission's continued jurisdiction over the effectuation of the Separation Plan, Boulder proposes that PSCo continue to own and operate the electric distribution system that serves Boulder until the Cut-Over Date. To that end, Phase 1 includes not only a request for the approval of the Assets for Transfer and the Separation Plan, but several other associated authorizations and requested orders.

First, in order to ensure that the Commission will have jurisdiction over the Assets for Transfer until they are acquired by Boulder at the Cut-Over Date, Boulder proposes that the Commission enter an order that PSCo and Boulder enter into an agreement that provides that: (1) the payment of the condemnation court's valuation award shall be deferred until after construction of the Separation Plan is complete; (2) there shall be no interest paid on such deferred amounts; and (3) the entry of the Rule and Order shall be delayed until the systems are fully separated. Such an agreement will address matters not generally before the condemnation

court as assets are typically transferred shortly after the conclusion of a valuation trial. However, if PSCo and Boulder jointly present such an agreement to the condemnation court and it has been previously approved by the Commission, the likelihood of the court's approval of the agreement is vastly improved.

Second, because PSCo will continue to own and operate the electric distribution system that serves Boulder until the Cut-Over Date, the Commission will continue to have jurisdiction over the service provided by PSCo to its Boulder customers and over the construction/reconfiguration work performed to separate the system. However, because Boulder will not own the assets or operate the system until the Cut-Over Date, it will not have revenue that could be pledged as security for revenue bonds issued by the utility. Consequently, Boulder proposes that the costs PSCo incurs in effectuating the changes to its distribution system, which are necessitated by the Commission-approved Separation Plan, be tracked in a regulatory asset until the Cut-Over Date. However, upon the completion of the separation/reconfiguration, Boulder would pay the separation/reconfiguration costs with accumulated interest at PSCo's WACC, thereby keeping PSCo and its remaining ratepayers whole.

However, in the event the Commission is not inclined to order PSCo to create a regulatory asset in this proceeding, the City proposes that determination of the appropriate funding mechanism for the construction, separation and integration activities be addressed in Phase 2 at the same time as the cost estimate is provided in connection with the detailed design drawings and specifications, *i.e.*, in Phase 2. This will permit Boulder to assess which funding mechanism is most appropriate depending on the estimated costs involved and the timeline for incurring those costs.

VI. RESPONSES TO COMMISSION QUESTIONS

- a) *Will the City of Boulder's (Boulder or the City) plan affect Public Service Company of Colorado's (public Service or Company) ability to produce adequate, safe and reliable electricity, at a reasonable cost, to its customers inside and outside of Boulder during the interim period?*

Boulder witness Thomas A. Ghidossi answered this question from the Commission on page 108 of his Direct Testimony. His response was as follows:

- A. No. Boulder recommends, as I have discussed, that PSCo continue to operate and control the entire system through the interim period. Doing so will minimize impacts to customers during the construction period. Once the Separation Plan construction is complete, energized, and tested, the system will be ready to be transferred to Boulder. Until that time, the customers should only experience an improvement in service quality as capacity and redundancy are added to the system.

Boulder witness Steven D. Catanach also answers this question from the Commission on pages 180-181 of his Direct Testimony. His response was as follows:

- A. No. As proposed, PSCo will continue to operate and control the entire system through the interim period. As discussed, a single operator in control of the system while they are still integrated ensures that proper communication and coordination will occur. As with all well operated electric utilities PSCo has a strong focus on ensuring that their employees and the public are protected. I would have to assume that the safety practices that PSCo employees today will continue through the interim period. Once the Separation Plan construction is complete, energized and tested and all customers have been transferred to their serving utility the system will be ready for transfer to the City. The reliability of the existing system will continue to be dependent on the same factors that influence the reliability of the system today including the workmanship applied to the facilities when they were built and the maintenance that has been performed on the system.

- b) *Will Boulder's plan affect Public service's ability to provide adequate, safe and reliable electricity, at a reasonable cost, to its remaining customers after Boulder begins operating its municipal utility?*

Mr. Ghidossi also responded to this Commission question. The following response is found on pages 108-109 of his Direct Testimony:

- A. No. As detailed above, the Separation Plan is designed to ensure that the two separate systems perform effectively by delivering the same or better level of voltage to customers served by both the PSCo system and the City's system. Furthermore, the Separation Plan ensures that there is the same or better capacity, the same or better redundancy, and the same or better outage response time. Since Boulder will be paying the costs of the Separation Plan, the new facilities and associated construction will have no impact on PSCo's cost to serve.

Mr. Catanach also answers this question from the Commission on page 181 of his Direct Testimony. His response was as follows:

- A. No, as detailed above the Separation Plan is designed to ensure the that the two separate systems perform effectively by delivering the same or better level of voltage to customers served by both the PSCo system and the City's system. Assuming PSCo continues to adequately train, provide the proper tools and equipment to its employees, continues to focus on safety and promotes a culture of safety the safe operation of the system after separation should not be affected. As discussed above, the reliability of the system will continue to be dependent on the same factors that influence the reliability of the system today including the workmanship applied to the facilities when they were build and the maintenance that has been performed on the system.

c) *How and when will the Commission contribute to a valuation of the assets that Boulder will acquire from Public Service under § 40-4-110 and § 40-4-118, C.R.S.? Does this valuation need to occur in a separate proceeding?*

Boulder witness Kenneth Skogg responded to the first part of this question in his Direct Testimony on pages 23-24, as follows:

- A. I can answer the question about valuation to the extent it applies to valuation for condemnation purposes and the issue of the location of assets or customers based on the City's authorization to condemn and previous decisions in this case. From the question, I am not sure what is intended by "the Commission contribute to a valuation." From reviewing the referenced statutes, I do not believe the legislature intended them to apply

in the condemnation context, but instead to apply in a ratemaking context and other valuation issues that may be within the jurisdiction of the Commission. Even if the legislature had tried, which I cannot ascertain from the language of the statutes, I do not believe that a statute can override the constitutional requirement that the court determinate valuation for condemnation purposes. However, for valuation purposes for ratemaking or other issues under the jurisdiction of this Commission, I am not offering any opinion as to the interpretation of C.R.S. §§ 40-4-110 or 40-6-118.

The second question is primarily a legal question. Boulder believes that should the Commission determine that it wishes to value the assets Boulder wishes to acquire, that valuation would have to occur in a separate proceeding. This proceeding was noticed in a way that would not give notice to parties that it included a valuation proceeding under § 40-4-110, C.R.S. Further, that statute references the owner of the assets bringing the request rather than a potential purchaser. Consequently, Boulder would not be the applicant in a proceeding under § 40-4-110, C.R.S.

d) *Who will control and pay for all of the incurred costs necessary for Public Service and Boulder to operate separate electric utilities (including, but not limited to, the costs of the assets to be transferred, the construction of new facilities, and the costs of litigation)?*

Boulder's policy witness, Heather Bailey, responded to this question on pages 69 of her Direct Testimony:

A. As I discuss above and as discussed by Mr. Catanach, the City will pay PSCo its actually- and prudently- incurred costs associated with developing the detailed design drawings and specifications in advance of Phase 2 and the costs to complete the Separation Plan, including new construction. The City will also pay the costs of the assets to be transferred as discussed by Mr. Skogg. The City does not propose to pay PSCo for the costs of litigation. Although I am not an attorney, my understanding is that there is no legal basis to charge the City for PSCo's litigation costs. Rather, my understanding is that the practice at the Commission and in the district court is for each party to pay its own legal

costs. Further, from a policy perspective, an order requiring the City to pay all of PSCo's cost of litigation will provide a powerful incentive for PSCo to litigate rather than work cooperatively to resolve these issues. PSCo might be inclined to do so in order to run up the costs to the City and discourage the City from continuing forward. Certainly, such a result would be contrary to the public interest. Our sincere hope is that after this Phase 1 is concluded, that the Commission provide both Boulder and PSCo with sufficient guidance that issues in the future can be resolved cooperatively rather than through continued litigation.

e) *How does Boulder intend to pay Public Service for the incurred costs?*

Boulder witness Robert Eichem, Boulder's Chief Financial Advisor, addresses this question on pages 49-50 of his Direct Testimony. There he responds:

A. Subject to the protections detailed above, Boulder presently anticipates paying PSCo – at a point in time no later than the Cut-Over Date, which we estimate to be at least five years in the future – for the prudently- and actually- incurred costs tracked in the regulatory asset, along with PSCo's accrued WACC on those amounts, using the proceeds from some mixture of taxable and tax-exempt bonds. The decision regarding the precise method of financing will be made closer to the time the funds are needed and the outcome of this proceeding is known.

f) *How does Boulder propose to ensure that Public Service is paid for all of the incurred costs in the event that Boulder decides not to become a municipal utility?*

Mr. Eichem responds to this question on pages 51-52 of his Direct Testimony:

A. Under Boulder's proposal, it will make its "Go/No-Go Decision" prior to the time the actual construction/reconfiguration of the PSCo system begins. While the amounts incurred prior to that date for additional engineering are by no means small, they do not compare to the expenditure required to actually perform the separation work. Thus, if the City's Go/No-Go Decision is to take an off-ramp and not proceed forward with municipalization, Boulder would still assume financial responsibility for the prudently- and actually- incurred costs, plus PSCo's WACC, as accrued and accounted for in the regulatory asset.

g) *How does Boulder propose to ensure that Public Service is paid for all of the incurred costs in the event that Boulder does not have sufficient funds to pay Public Service?*

This question is also responded to by Mr. Eichen, on page 52 of his Direct

Testimony:

A. Following the Commission's decision in Phase 2 and the completion of the condemnation process, Boulder will have a much firmer idea of the cost to acquire the assets and the cost of the Separation Plan. Thus, at that time, Boulder anticipates entering into a contract with PSCo that would establish the obligation to pay the acquisition costs as well as the actually- and prudently-incurred separation costs on or just before the Cut-Over Date. Boulder anticipates that that contract would also discuss the method of payment. While Boulder has the ability to make a financial commitment in such a contract, often the manner in which financial commitments can be made are very different from what is allowed in the private sector. Therefore, the structure of the commitment will have to be consistent with applicable law. That is one of the reasons that it is important to know the timing and amounts of commitments prior to structuring the precise form of the commitment from the City. But Boulder will ensure PSCo's costs are repaid.

h) How will the benefits and costs of the separation – including the purchase of the assets and the payment of construction costs – be allocated between Public Service's ratepayers and shareholders? What steps must be taken to ensure that the ratepayers who remain with Public Service are not burdened with any of the costs of the separation and that the remaining ratepayers receive adequate, safe, and reliable electricity at a reasonable price? Which aspects of these questions are appropriately addressed in this proceeding as opposed to a subsequent proceeding?

Mr. Skogg responded to this question in his Direct Testimony at page 22 as follows:

A. The allocation phase is generally among those who have an interest in the property being acquired. Usually that includes the county assessor for any taxes due, tenants, easement holders, license holders and lenders. I do not practice public utilities law and do not assert an opinion as to whether the Commission's interest is an ownership interest that would qualify.

- i) *Shall the Commission determine in this proceeding, as opposed to a subsequent proceeding, Boulder's ability to deliver safe, reliable, and effective service to its customers after the separation from Public Service occurs? How shall that be determined?*

Mr. Ghidossi's response to this question is found on pages 109-110 of his Direct

Testimony where he states:

- A. Yes, based on Boulder's testimony and the detailed engineering analysis done by the City. The Separation Plan has been designed to ensure the performance of the system meets industry performance standards for voltage and capacity. The extensive analysis performed by my team and me proves that the separated system will provide effective and high quality service to the customers of Boulder. As for safety, I have been a consultant for many years for Boulder and I can state from personal experience that Boulder is currently and will continue to be committed to ensuring the safety of its employees and contractors. I have no doubt that Boulder citizens will enjoy quality service from the new Boulder utility and that the utility will be highly responsive to the needs and concerns of Boulder citizens.

Mr. Catanach also responded to this question. His response is located on page

182 of his Direct Testimony:

- A. Yes. From an engineering perspective, the Separation Plan has been designed to ensure the performance of the system meets industry performance standards for voltage and capacity which is discussed in detail in Mr. Ghidossi's testimony. The extensive analysis performed by Mr. Ghidossi and his team proves that the separated system will provide effective and high quality service to the customers of Boulder. As discussed above, safe operation of a system is dependent on not only the standard to which the infrastructure is built but on the training, tools, equipment, processes and practices of the operating utility and the development of a culture of safety within the organization. Boulder is currently and will continue to be committed to ensuring the safety of its employees and contractors. As noted in my testimony, reliability is so important to the City that they have defined a level of performance in the City Charter. This is more than a stated goal, but is instead fundamentally a law within the City of Boulder that the reliability of the electric system will meet a specific level or better. As discussed in my testimony there

are several actions that the City can undertake as part of a proactive approach to ensuring the reliability of the system. Examples of this include: increased frequency of tree trimming, increase use of animal guards, line inspections (line patrols) in the Spring to identify potential problems with trees and equipment, thermal inspections of equipment to identify points of potential failure, and other actions will all help identify potential problems before they occur.

Mr. Eichem also responds to this question. His response is located at page 57 of

his Direct Testimony:

- A. Yes. The City has extensive experience and a proven track record providing safe, reliable, and effective utility service to customers in Boulder. From a financial perspective, the City is well positioned to do the same with regard to electric service. Of course, much depends on the ultimate cost of the acquisition and separation. But once those decisions are made, I know that the City will carefully weigh its options at the Go/No-Go phase. If the City elects to move forward at that point, that decision will be based on the City's commitment to and success with meeting and following through on all of its financial responsibilities to the community and those who own the City-issued bonds.

Finally, Ms. Bailey also responds to this question. Her response is located

at page 82 of her Direct Testimony:

- A. Yes. The City has extensive experience and a proven track record of providing safe, reliable, and effective utility service to customers in Boulder. From my experience with electric utilities and municipal utilities, the City is well positioned to do the same with regard to electric service. Boulder has assembled a very talented team of individuals to help create the municipal electric utility. As time goes on, more folks will be brought in with the right combination of experience and knowledge to keep the City moving forward. When all is said and done, I fully expect Boulder's municipal electric utility to meet or exceed the peoples' expectations.

VII. INFORMATION REQUIRED BY RULE 3104

...(b) An application...to transfer assets subject to the jurisdiction of the Commission shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attached exhibits:

(I) *The information required in rules 3002(b) and 3002(c), as pertinent to each party to the transaction.*

Please see the information provided below.

(II) *A statement showing accounting entries, under the Uniform System of Accounts, including any plant acquisition adjustment, gain, or loss proposed on the books by each party before and after the transaction which is the subject of the application.*

The City is unable to provide this information until the negotiated acquisition terms are known or the condemnation action in Boulder District Court has been completed.

(III) *Copies of any agreement for merger, sales agreement, or contract of sale pertinent to the transaction which is the subject of the application.*

There is no contract for sale of assets between the City and PSCo.

(IV) *Facts showing that the transaction which is the subject of the application is not contrary to the public interest.*

Please see Section X. below, as well as the Testimony and Attachments of the witnesses filed on behalf of the City in support of this Application.

(V) *An evaluation of the benefits and detriments to the customers of each party and to all other persons who will be affected by the transaction which is the subject of the application.*

Please see the Testimony and Attachments of the witnesses filed on behalf of the City in support of this Application.

(VI) *A comparison of the kinds and costs of service rendered before and after the transaction which is the subject of the application.*

Because, unless they serve customers located outside their jurisdictional boundaries, municipal electric utilities are not within the jurisdiction of the Commission, Boulder has not

provided information in this Third Supplement regarding the kinds and costs of service that will be provided to its customers after the Cut-Over Date. Under Boulder's proposal, PSCo will continue to operate the system and serve Boulder customers until the Cut-Over Date and Boulder anticipates that PSCo's Boulder customers will continue to receive the same service they receive today until then.

(c) An application to transfer a certificate of public convenience and necessity, an application to transfer assets subject to the jurisdiction of the Commission, or an application to transfer or obtain control of the utility may be made by joint or separate application of the transferor and the transferee.

The City is not seeking to serve customers outside its jurisdictional boundaries. Upon the completion of the City's acquisition of the assets proposed for transfer, PSCo and/or the City will file an application to amend the PSCo service territory to exclude service within Boulder, with the exception of two City-owned properties: the facilities at Boulder Reservoir on the northern edge of the City Limits and the Open Space and Mountain Parks Department facilities located at Cherryvale Road and South Boulder Road on the southeastern edge of the City Limits.

(d) When control of a utility is transferred to another entity, or the utility's name is changed, the utility which will afterwards operate under the certificate of public convenience and necessity shall file with the Commission a tariff adoption notice, shall post the tariff adoption notice in a prominent public place in each local office and principal place of business of the utility, and shall have the tariff adoption notice available for public inspection at each local office and principal place of business. Adoption notice forms are available from the Commission. The tariff adoption notice shall contain all of the following information:

(1) The name, phone number, and complete address of the adopting utility.

(II) The name of the previous utility.

(III) The number of the tariff adopted and the description or title of the tariff adopted.

(IV) The number of the tariff after adoption and the description or title of the tariff after adoption. Code of Colorado Regulations 25

Because control of a utility is not being transferred to another entity, this provision is not applicable.

(V) Unless otherwise requested by the applying utility in its application, a statement that the adopting utility is adopting as its own all rates, rules, terms, conditions, agreements, concurrences, instruments, and all other provisions that have been filed or adopted by the previous utility.

This provision is not applicable to the City since it is not an adopting utility.

VIII. INFORMATION REQUIRED BY RULE 3002(B)

(b) In addition to the requirements of specific rules, all applications shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attached exhibits:

(I) Name and Address of Applying Utility

City of Boulder, acting by and through its electric utility
1777 Broadway
Boulder, CO 80302

(II) Name under which the applying utility is, or will be, providing service in Colorado.

City of Boulder, acting by and through its electric utility

- (III) *The name, address, telephone number, facsimile number and email address of the applying utility's representative to whom all inquiries concerning the application should be made.*

Heather Bailey, Executive Director,
Energy Strategy and Electric Utility Development
1101 Arapahoe Avenue
Boulder, CO 80302
303.441.1923 (phone)
baileyh@bouldercolorado.gov

- (IV) *A statement that the applying utility agrees to answer all questions propounded by the Commission or its Staff concerning the application.*

Please see the statement in response to (VII), below.

- (V) *A statement that the applying utility shall permit the Commission or any member of its Staff to inspect the applying utility's books and records as part of the investigation into the application.*

Please see the statement in response to (VII), below.

- (VI) *A statement that the applying utility understands that, if any portion of the application is found to be false or to contain material misrepresentations, any authorities granted pursuant to the application may be revoked upon Commission order.*

Please see the statement in response to (VII), below.

- (VII) *In lieu of the separate statements required by subparagraphs (b)(IV) through (VI) of this rule, a utility may include a statement that it has read, and agrees to abide by, the provisions of subparagraphs (b)(IV) through (VI) of this rule.*

Boulder has read and agrees to abide by the provisions of subparagraphs

(b)(IV) through (VI) of Commission Rule 3002.

(VIII) A statement describing the applying utility's existing operations and general service area in Colorado.

Boulder does not currently operate an electric utility within the state of Colorado. Boulder's proposed service area is coterminous with its jurisdictional boundaries.

(IX) For applications listed in subparagraphs (a)(I), (II), (III), (V), and (VI) of this rule, a copy of the applying utility's or parent company's and consolidated subsidiaries' most recent audited balance sheet, income statement, statement of retained earnings, and statement of cash flows so long as they provide Colorado specific financial information.

The titles of government financial statements differ from the financial statements of private entities. The following chart explains these differences:

Financial Statement Titles

| <u>Type of Statement</u> | <u>Type of Fund</u> | <u>Name of Statement</u> |
|---------------------------------|----------------------------|--|
| Balance Sheet | Government-Wide | Statement of Net Position |
| | Governmental Funds | Balance Sheet |
| | Proprietary Funds | Statement of Net Position |
| Income Statement | Government-Wide | Statement of Activities |
| | Governmental Funds | Statement of Revenues, Expenditures and Changes in Fund Balance |
| | Proprietary Funds | Statement of Revenues, Expenses and Changes in Fund Net Position |

| | | |
|--------------------------------|--------------------|-------------------------------------|
| Statement of Retained Earnings | | *NA – see above “Income Statements” |
| Statement of Cash Flows | Government-Wide | **NA |
| | Governmental Funds | **NA |
| | Proprietary Funds | Statement of Cash Flows |

*NA – Governmental entities do not have retained earnings. The fund equity is referred to as fund balance for Governmental Funds and Net Position for Proprietary Funds. The statement of changes in these financial statement elements are accounted for in the preceding “income statements.”

**NA – In accordance with GAAP, governmental funds do not prepare a cash flows statement nor is a government wide cash flow statement prepared. Proprietary Funds do prepare a Statement of Cash Flows as required by GAAP.

With this Application, Boulder is providing the following documents:

Statement of Net Position; Statement of Activities; Net (Expense) Revenue and Changes in Net Assets; Balance Sheet, Governmental Funds; Statement of Revenues, Expenditures and Changes in Fund Balances, Governmental Funds; Statement of Net Position, Proprietary Funds; Statement of Revenues, Expenses and Changes in Fund Net Position, Proprietary Funds; Statement of Cash Flows, Proprietary Funds. These documents are provided in a consolidated fashion as **Attachment 4**. They are excerpted from the City’s Comprehensive Annual Financial Report for the fiscal year ended December 31, 2015, which is attached to the Direct Testimony of Boulder witness Robert W. Eichen as Attachment RWE-11.

(X) *A statement indicating the town or city, and any alternative town or city, in which the applying utility prefers any hearings be held.*

Boulder prefers that hearings are held in either the Commission’s hearing room in Denver, Colorado, or in Boulder, Colorado.

(XI) Acknowledgment that, by signing the application, the applying utility understands that:

(A) The filing of the application does not by itself constitute approval of the application.

(B) If the application is granted, the applying utility shall not commence the requested action until the applying utility complies with applicable Commission rules and any conditions established by Commission order granting the application.

(C) If a hearing is held, the applying utility must present evidence at the hearing to establish its qualifications to undertake, and its right to undertake, the requested action.

(D) In lieu of the statements contained in subparagraphs (b)(XI)(A) through (C) of this rule, an applying utility may include a statement that it has read, and agrees to abide by, the provisions of subparagraphs (b)(XI)(A) through (C) of this rule.

Please see the attestation at the conclusion of this application.

(XII) An attestation which is made under penalty of perjury; which is signed by an officer, a partner, an owner, an employee of, an agent for, or an attorney for the applying utility, as appropriate, who is authorized to act on behalf of the applying utility; and which states that the contents of the application are true, accurate, and correct. The application shall contain the title and the complete address of the affiant.

Please see the attestation at the conclusion of this application.

(c) *In addition to the requirements of specific rules, all applications shall include the information listed in subparagraphs (a)(I) through (V) of rule 1310. Applying utilities may either include the information in the application itself, or incorporate the information by reference to the miscellaneous docket created under rule 1310.*

1310. Information Regarding Regulated Entities.

(a) *A regulated entity may maintain information regarding the regulated entity in an administrative proceeding created for that purpose. A regulated entity may incorporate by reference, in any application, petition, or motion, the information maintained in such an administrative proceeding, provided that the regulated entity also attests that the most current information is on file. In the application, petition, or motion, the regulated entity shall state the date the incorporated information was last filed with the Commission. If a regulated entity chooses to maintain information in an administrative proceeding, the following information may be filed:*

(I) a copy of the regulated entity's applicable organizational documents (e.g., Articles of Incorporation, Partnership Agreements, Articles of Organization);

(II) if the regulated entity is not organized in Colorado, a current copy of the certificate issued by the Colorado Secretary of State authorizing the regulated entity to transact business in Colorado;

(III) the name, business address, and title of each officer, director, and partner;

(IV) the names and addresses of affiliated companies that conduct business with the regulated entity; and

(V) the name and address of the regulated entity's Colorado agent for service of process.

(b) If the information regarding the regulated entity changes, the regulated entity shall make a subsequent filing within a reasonable time to update the information previously filed.

Boulder is a Colorado home rule municipality that intends to operate a municipal electric utility. Neither home rule cities nor municipal electric utilities are regulated entities pursuant to Title 40 of the Colorado Revised Statutes.

IX. BOULDER'S PROPOSALS ARE NOT CONTRARY
TO THE PUBLIC INTEREST

Boulder is requesting that the Commission approve the transfer of the assets and associated property interests identified in Section III of this Third Supplement and the method proposed by the City to separate the City's facilities from PSCo's in such a way as to allow continuity of safe and reliable service. Boulder has created a Separation Plan that will permit both the Boulder system and the PSCo system to be operated with the same or greater level of safety, reliability and effectiveness that customers presently enjoy. As such, Boulder's request for the transfer of assets and its Separation Plan are not contrary to the public interest. If the City's approach is adopted, PSCo customers throughout the state will be unharmed by the approval of Boulder's proposed transfer of assets. This approach is not contrary to the public interest.

X. CONCLUSION

It has become increasingly clear that the existing energy system is undergoing a historic transition. Various innovations and challenges have begun to shift the local and global energy landscape, including the expanding use of distributed generation, the increasing frequency of extreme weather events, and emerging clean technologies that have the potential to remake our

energy system. Efficiency, conservation, and local generation have begun to undercut utility revenue and rooftop solar is eroding electricity demand right at the source.

Fundamentally, Boulder would like to create a City-owned electric utility that can meet our community's desire for clean power, innovative and unique services and reinvestment in local economic vitality. Boulder has the right to form an electric utility and to condemn facilities necessary for that utility. Boulder votes have weighed in on four separate ballot measures in favor of moving forward with our attempt to do just this.

Boulder's objective in forming a municipal electric utility is greater local control and self-determination over its electric deliver system and supply. This includes the City's goals of democratization, decentralization and decarbonization of its power supply. Boulder wishes to have the opportunity to run a utility that is governed by the people of Boulder themselves and believes that self-determination will aid it in meeting our community's goals.

XI. HEARING, VERIFICATION, AND REQUEST FOR RELIEF

At the hearing in this matter, Boulder will present competent evidence to demonstrate that the relief requested is not contrary to the public interest and to justify granting this Third Supplement.

This Third Supplement is verified by the attached affidavit of Heather Bailey, Executive Director of Energy Strategy and Electric Utility Development for the City of Boulder.

WHEREFORE, Boulder respectfully requests that the Commission issue an Order granting the Third Supplement and approving (1) the City's designation of the Assets for Transfer; and (2) Boulder's Separation Plan, finding that the Separation Plan, when constructed, will result in PSCo having a distribution system that is as effective, reliable, and safe as the

current system that serves the PSCo customers outside of Boulder. Boulder requests that in its order in this Phase 1, the Commission order:

- PSCo, in collaboration with the City's engineers, to: (1) select a third-party engineer(s), acceptable to the City, to develop detailed design drawings and specifications for the Separation Plan; (2) develop a cost estimate and bid package, and solicit bids, for the construction/reconfiguration work; and (3) develop a preliminary schedule for the construction/reconfiguration work, all of which will be submitted to the Commission for approval in Phase 2;
- PSCo to continue to own, possess, operate, maintain, and improve the electric distribution system in Boulder until the Cut-Over Date, thereby eliminating any impact to customers in the interim period and permitting PSCo to continue to receive the benefits and obligations of ownership until the Cut-Over Date;
- PSCo to enter into an agreement with Boulder that provides that: (1) the payment of the condemnation court's valuation award shall be deferred until after construction of the Separation Plan is complete; (2) there shall be no interest paid on such deferred amounts; and (3) the entry of the Rule and Order shall be delayed until the systems are fully separated;
- PSCo to: (1) construct the facilities necessary to implement the Separation Plan; and (2) track, in a regulatory asset, the costs related to the development of detailed design drawings and specifications, a cost estimate and bid package, and a preliminary schedule for the construction/reconfiguration work; the solicitation of bids; and the construction of the facilities necessary to implement the Separation Plan, subject to the following conditions:

- (i) PSCo to provide the City a confidential detailed cost estimate, within +/- 20 percent accuracy, consistent with its budgeting practices for the separation and construction costs;
- (ii) a proposed schedule for the milestones to be completed;
- (iii) PSCo to competitively bid the construction work to be done in order to inform the confidential cost estimate;
- (iv) PSCo to provide regular reports that track both PSCo's costs as they are incurred, relative to the estimated costs, as well as PSCo's progress with respect to the proposed schedule, including explanation of any material deviations, unforeseen delays, or issues; and
- (v) Boulder to reimburse PSCo only for those actually- and prudently-incurred costs, as determined by the Commission;
- Boulder to pay the costs accounted for in the regulatory asset, with interest accruing at PSCo's WACC, when the systems are fully separated; and
- Boulder and PSCo to submit to the Commission, or if the Commission prefers, to a Commission-appointed Administrative Law Judge, any disputes that arise between PSCo and Boulder prior to the Cut-Over Date that concern matters within the jurisdiction of the Commission.

DATED this 12th day of May 2017.

Respectfully submitted,

CITY OF BOULDER

/s/ Debra S. Kalish

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**ATTORNEYS FOR THE CITY OF
BOULDER**

ATTESTATIONS

I, Heather Bailey, as Executive Director for Energy Strategy and Electric Utility Development, having read subparagraphs (b)(XI)(A) through (C) of Commission Rule 3002, do hereby represent that the City of Boulder agrees to abide by the provisions of subparagraphs (b)(XI)(A) through (C) of that rule.

I, Heather Bailey, as the Executive Director for Energy Strategy and Electric Utility Development for the City of Boulder, and under penalty of perjury, attest that I am authorized to act on behalf of the City of Boulder and do hereby state that the contents of this Application are true, accurate, and correct to the best of my knowledge.

