ADVANCE SHEET HEADNOTE
June 13, 2022

2022 CO 26

No. 21SA265, *Danks v. Colorado Public Utilities Commission and DCP Operating Company, L.P.* —Public Utility Law—Administrative Law.

In this case, the supreme court considers whether a gas-gathering operation meets the statutory definition of a public utility such that it is subject to the jurisdiction of the Public Utilities Commission ("PUC"). The court now concludes that the PUC regularly pursued its authority in determining that the gas-gathering operation is not a public utility over which the PUC has jurisdiction, that the PUC's decision was just and reasonable, and that the PUC's conclusions were in accordance with the evidence.

Accordingly, the court affirms the district court's judgment upholding the PUC's ruling.

The Supreme Court of the State of Colorado
2 East 14th Avenue • Denver, Colorado 80203

2022 CO 26

Supreme Court Case No. 21SA265
Appeal from the District Court
District Court, City and County of Denver, Case No. 21CV30211
Honorable A. Bruce Jones, Judge

Petitioner-Appellant:

William C. Danks,

v.

Respondents-Appellees:

Colorado Public Utilities Commission and DCP Operating Company, L.P.

Judgment Affirmed
en banc
June 13, 2022

Petitioner-Appellant William C. Danks, pro se

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JUSTICE GABRIEL delivered the Opinion of the Court, in which **CHIEF JUSTICE BOATRIGHT**, **JUSTICE MÁRQUEZ**, **JUSTICE HOOD**, **JUSTICE HART**, **JUSTICE SAMOUR**, and **JUSTICE BERKENKOTTER** joined.

JUSTICE GABRIEL delivered the Opinion of the Court.

¶1 William C. Danks appeals the judgment of the district court affirming the Public Utilities Commission's ("PUC's" or "Commission's") decision that a gas-gathering system operated by DCP Operating Company, L.P. ("DCP") does not meet the statutory definition of a public utility and therefore is not subject to the PUC's jurisdiction. We conclude that the PUC regularly pursued its authority in reaching this decision, that the decision was just and reasonable, and that the PUC's conclusions were in accordance with the evidence.

¶2 Accordingly, we affirm the district court's judgment.

I. Facts and Procedural History

¶3 The following facts derive from Danks's operative complaint in this case or appear to be undisputed.

¶4 DCP operates a gas-gathering system in Weld County, Colorado known as the Grand Parkway pipeline. The system collects and delivers raw and unprocessed gas from wells located on private land to processing facilities primarily owned by or operated for DCP. The processing facilities remove impurities from the raw gas and convert it into processed dry gas and natural gas liquids ("NGLs"). Thereafter, two of DCP's marketing affiliates market the DCP-owned processed gas for sale into competitive markets. Buyers who purchase DCP's processed gas receive the product via delivery trucks or inter- and

intrastate pipelines that channel the product downstream from the processing facilities. DCP does not market or sell any of the raw and unprocessed gas in its gathering system to end-use consumers.

¶5 DCP began operating the first phase of the Grand Parkway project in 2016. DCP also planned to construct two smaller pipelines, the Red Cloud and Lindsey pipelines, that would connect to the Grand Parkway. In 2019, the Weld County Oil and Gas Energy Department sent a letter notifying surrounding property owners of the proposed pipelines.

¶6 Danks, a lawyer and farm owner in Weld County, received this letter and filed a complaint with the PUC, which assigned the matter to an Administrative Law Judge ("ALJ"). In his original complaint, Danks alleged, in pertinent part, that DCP had "fail[ed] to get a Certificate of Public Convenience and Necessity [("CPCN")] from the Colorado Public Utilities Commission before it began building its 62 mile pipeline project in Weld County which it calls the 'Grand Parkway.'" Nor, Danks further alleged, did DCP obtain a CPCN for its proposed Red Cloud and Lindsey pipelines.

¶7 DCP moved to dismiss Danks's complaint, asserting that (1) he lacked standing to pursue his claims because he did not allege an injury connected to DCP's gas-gathering activities and (2) DCP was not supplying the public when it

gathered raw gas for processing and therefore DCP was not a public utility and its gas-gathering activities did not fall within the PUC's jurisdiction.

¶8 Danks filed a response to DCP's motion to dismiss and attempted to file an amended complaint that, in pertinent part, would have (1) clarified that his original complaint included DCP's processing facilities and (2) addressed DCP's arguments regarding standing. DCP moved to strike Danks's proposed amended complaint, alleging that he had not complied with the applicable PUC Rules of Practice and Procedure, which required that he obtain leave of the PUC to amend or supplement an original complaint.

¶9 The ALJ agreed with DCP and denied Danks's attempt to amend his complaint. In so ruling, the ALJ noted that "the manner in which . . . Danks attempted to amend the Complaint makes it difficult to identify and assess the claims in this proceeding" and "the Amendment does more to obfuscate than to clarify or supplement the claims asserted." Nevertheless, the ALJ outlined the specific requirements for properly amending a complaint and informed Danks that he could seek leave to amend his complaint provided that he complied with those requirements.

¶10 Danks then filed a motion seeking leave to amend his complaint, to which he attached an updated version of the amended complaint that he had previously attempted to file. In the amended complaint, Danks alleged that standing

principles did not apply to complaints made to the PUC. Alternatively, he argued that he had standing to bring his claims because his "right to property has been damaged by DCP's Grand Parkway project." Specifically, Danks alleged that he was injured when DCP placed four different pipelines (three of which were no longer in operation at the time of the amended complaint) on his farmland and engaged in other activities that had diminished the fair market value of his property.

¶11 Although the ALJ noted that Danks had "fail[ed] to provide any cause to amend the Complaint," she nonetheless granted Danks's motion and accepted the amended complaint "in the interests of moving the matter forward to a full and final resolution."

¶12 Thereafter, Danks filed a second motion to amend his complaint. DCP opposed this motion and moved to dismiss Danks's amended complaint. Danks responded by filing a combined motion for summary judgment and brief in opposition to DCP's motion to dismiss, and that same day, he filed a third motion to amend his complaint, along with a proposed third amended complaint.

¶13 Concerned about the moving target that Danks's complaint had become, the ALJ denied Danks's second and third motions for leave to amend, concluding that Danks had failed to show good cause to amend his complaint further and that allowing him to do so "would unreasonably delay the forward progress of this

proceeding, unnecessarily increase the costs of litigation, and reward Mr. Danks's voluntary decision not to include the proposed amendments in the Amended Complaint." The ALJ further ruled that Danks's motion for summary judgment was "exceedingly premature" because he had filed that motion before the ALJ had ruled on his second and third motions to amend. The ALJ thus denied Danks's summary judgment motion.

¶14 The ALJ subsequently issued a decision recommending that Danks's amended complaint be dismissed. In so ruling, the ALJ reasoned that Danks had alleged property damage, land use or siting issues, and other tortious conduct but that none of these had any connection with a CPCN proceeding. Accordingly, the ALJ concluded that the amended complaint should be dismissed for lack of standing. The ALJ did not reach the question of whether, because DCP is not a public utility, the PUC lacked jurisdiction.

¶15 Danks then filed a motion for reconsideration, challenging the ALJ's determination that he lacked standing to bring his claims before the PUC and asserting that he was entitled to an evidentiary hearing regarding the true operation of DCP in the Grand Parkway project and whether this operation was a public utility.

¶16 The PUC construed Danks's motion as asserting exceptions to the ALJ's recommended decision, and the PUC granted in part and denied in part Danks's

exceptions. As pertinent here, the PUC agreed with the ALJ that "many of the concerns raised in [Danks's] complaint are not redressable by this Commission." Moreover, the PUC found that Danks's arguments were "not compelling grounds to move this matter to an evidentiary hearing."

¶17 The PUC went on, however, to opine that "the interests of justice" compelled it to review the record to determine whether DCP was unlawfully engaged in public utility operations. Then, accepting the facts alleged in Danks's amended complaint as true, the PUC concluded that up to the processing plant, DCP was not a public utility supplying natural gas to the public.

¶18 To support this determination, the PUC began by explaining that under section 40-1-103(1)(a)(I), C.R.S. (2021), for an entity to be a regulated pipeline utility, the entity had to be a pipeline or gas corporation operating for the purpose of supplying the public for domestic, mechanical, or public uses. Here, although Danks claimed that DCP had failed to obtain a CPCN before building the Grand Parkway, Red Cloud, and Lindsey pipelines, his amended complaint specifically alleged that DCP did not market the raw gas that it gathers in its Colorado gas-gathering system and that the Grand Parkway pipeline was to serve as a gathering line for the natural gas produced upstream of the processing plant. In light of these allegations as to the operations at issue, the PUC concluded that DCP was not a public utility.

¶19 The PUC was not persuaded otherwise by Danks's effort to define the Grand Parkway pipeline to include the processing plants. In the PUC's view, Danks's

factual allegations belied such an assertion, and the fact that the Grand Parkway connected to a processing plant did not mean that it and the Red Cloud and Lindsey pipelines transported gas that the public could use. The PUC thus found "no grounds in the facts alleged in Mr. Danks' pleadings to find that DCP is a regulated public utility requiring a CPCN for the pipelines at issue."

¶20 Although the PUC should perhaps have ended its analysis there (having thus fully disposed of the matter pending before it), it proceeded to provide notice to PUC staff to investigate, through normal procedures, whether DCP's operations downstream from the processing plants could implicate a public utility within the PUC's regulatory authority. Based on factual statements that Danks had made in the course of these proceedings, the PUC found it appropriate to advise its staff of those factual assertions and to allow staff to bring a show cause proceeding if, after investigation, staff determined that such a proceeding was appropriate. Accordingly, the PUC purported to dismiss "without prejudice" Danks's "[a]llegations, if any, downstream from DCP's processing plant." The PUC also informed Danks that he could assist staff by providing additional information through the informal complaint processes.

¶21 After receiving the PUC's decision, Danks filed an application for Rehearing, Reargument, and Reconsideration, alleging, in pertinent part, that the PUC had erred by "breaking the DCP operation into two parts: upstream and

downstream from the processing plants." The PUC denied this application, observing that (1) consistent with prior PUC decisions, it had considered upstream and downstream operations separately; (2) it was unclear whether DCP would be the appropriate "complainant" [sic; the PUC appears to have meant "respondent"] if valid concerns were raised; and (3) if any valid concerns arose downstream of the processing plant, then "the appropriate path forward would be in a separate proceeding that ensures the appropriate parties are represented."

¶22 Danks then sought review in the district court, raising the question of whether DCP is a public utility subject to regulation by the PUC. After briefing and oral argument by the parties, the district court issued a detailed order concluding that the PUC had properly dismissed Danks's amended complaint for lack of jurisdiction.

¶23 In its order, the district court first addressed Danks's standing to bring his claims before the PUC, and the court concluded, contrary to the PUC, that Danks had standing. The court deemed this result compelled by the plain language of section 40-6-108(1)(a), C.R.S. (2021), which provides, in pertinent part:

> Complaint may be made . . . by *any* . . . *person* . . . by petition or complaint in writing, setting forth *any act or thing done or omitted to be done by any public utility*, including any rule, regulation, or charge heretofore established or fixed by or for any public utility, in violation, or claimed to be in violation, of *any* provision of law or of any order or rule of the commission.

(Emphases added.)

¶24 The court then proceeded to consider the question of the PUC's jurisdiction over Danks's amended complaint. Noting that the PUC's distinction between upstream and downstream operations was "sensible in that the PUC regulates and applies its expertise to the interactions of a company when 'supplying the public,' and not that same company's dealings with vendors and others who provide raw resources," the district court concluded that the PUC had regularly pursued its authority in determining that, with respect to DCP's upstream operations, DCP was not a public utility subject to the PUC's jurisdiction. Accordingly, the district court affirmed the PUC's decision to dismiss the amended complaint for lack of jurisdiction.

¶25 Danks filed a Motion for Post-Trial Relief, which the district court denied, and he now appeals the district court's order affirming the PUC's decision granting DCP's motion to dismiss on jurisdictional grounds.

II. Analysis

¶26 We begin by addressing our jurisdiction over this appeal. We then set forth the law guiding our review, including the applicable standard of review and the statutes governing the PUC's jurisdiction over matters involving public utilities. We end by applying these statutory standards to the facts before us, and we conclude that the PUC regularly pursued its authority, its decision was just and reasonable, and its conclusions were in accordance with the evidence.

A. Jurisdiction

¶27 Section 40-6-115(5), C.R.S. (2021), provides that this court may review "any final judgment of the district court on review, affirming, setting aside, or modifying any decision of the commission, in the same manner and with the same effect as appellate review of judgments of the district court in other civil actions."

¶28 Given that a final judgment is a necessary predicate to this court's jurisdiction and that the PUC's decision below purported to have dismissed some of Danks's allegations without prejudice, we issued an order requesting that all parties address the following question at oral argument:

> In light of the fact that the District Court affirmed the Public Utilities Commission's order dismissing Appellant's complaint *without prejudice*, how do the district court's July 29, 2021 Order and Opinion and its August 9, 2021 Order denying Appellant's motion for post-trial relief under C.R.C.P. 59 constitute a final judgment for purposes of section 40-6-115(5), C.R.S. (2021), such that this court has jurisdiction over this appeal?

¶29 At oral argument, the parties agreed that the district court's orders constituted a final judgment regarding DCP's upstream operations. In DCP's and the PUC's view, that was the only issue properly presented to the PUC. Danks, in contrast, contended that his amended complaint sufficiently raised issues as to both DCP's upstream and downstream operations, and he twice moved this court to allow the parties to submit supplemental briefs on the issue of jurisdiction, apparently to allow him an opportunity to persuade us of our jurisdiction.

¶30 We subsequently concluded that supplemental briefing was unnecessary because, based on our independent review of the record, we agree with the parties that we have jurisdiction here. The substantive allegations of Danks's amended complaint concerned DCP's gas-gathering operations in the Grand Parkway pipeline, which ran from the wellheads to the processing facilities, and the proposed Red Cloud and Lindsey pipelines, which were part of those operations. Accordingly, in its decision regarding Danks's exceptions, the PUC focused on those allegations and expressly determined that DCP "is not a 'public utility' *upstream from the processing plant* as that term is defined in § 40-1-103(1)(a)(I), C.R.S., and therefore no CPCN is required for *these operations*." (Emphases added.)

¶31 Although the PUC perhaps should have ended its analysis there, it went on to acknowledge the distinction between DCP's upstream and downstream operations and stated that Danks's "[a]llegations, *if any*, downstream from DCP's processing plant are dismissed, without prejudice." (Emphasis added.)

¶32 Were we to conclude that Danks had, in fact, asserted viable claims regarding DCP's downstream operations and that the PUC had dismissed those claims "without prejudice," as that phrase is ordinarily understood, then we might be compelled to conclude that the judgment below was not final and that we therefore lack jurisdiction here. We, however, must look beyond form (and arguably imprecise language) to the substance of the ruling at issue, and doing so

persuades us that that is not what occurred. Instead, the PUC addressed the substantive claims that Danks alleged, which concerned the Grand Parkway, Red Cloud, and Lindsey pipelines (i.e., DCP's upstream operations). Based on those allegations, the PUC concluded that DCP was not a public utility as to such operations, and, perhaps gratuitously, made clear that if the PUC might subsequently find an issue with the downstream operations, then Danks would be free to pursue claims relating to those distinct operations in a future proceeding against the appropriate parties (which may or may not include DCP). The district court then affirmed these determinations.

¶33 With that understanding of the substance of what occurred below, we have little trouble concluding that the district court's ruling constituted a final judgment and that we have jurisdiction under section 40-6-115(5).

¶34 Accordingly, we will proceed to the substantive issues now before us.

B. Standard of Review

¶35 Section 40-6-115(3) provides:

> Upon review, the district court shall enter judgment either affirming, setting aside, or modifying the decision of the commission. So far as necessary to the decision and where presented, the district court shall decide all relevant questions of law and interpret all relevant constitutional and statutory provisions. The review shall not extend further than to determine whether the commission has regularly pursued its authority, including a determination of whether the decision under review violates any right of the petitioner under the constitution of the United States or of the state of Colorado, and

> whether the decision of the commission is just and reasonable and whether its conclusions are in accordance with the evidence.

¶36 We apply the same standard of review to PUC decisions as does the district court. *Pub. Serv. Co. v. Trigen-Nations Energy Co.*, 982 P.2d 316, 322 (Colo. 1999); *Colo. Off. of Consumer Couns. v. Pub. Utils. Comm'n*, 786 P.2d 1086, 1091 (Colo. 1990). Thus, although we give deference to the PUC's interpretations of applicable public utilities laws and regulations, the PUC's interpretations of law do not control our legal conclusions because courts must decide questions of law. *Trigen-Nations*, 982 P.2d at 322; *Powell v. Colo. Pub. Utils. Comm'n*, 956 P.2d 608, 613 (Colo. 1998).

¶37 Moreover, in ruling on a motion to dismiss, when not inconsistent with Title 40 or the PUC's regulations, the PUC "may seek guidance from or may employ the Colorado Rules of Civil Procedure." Pub. Utils. Comm'n, 4 Colo. Code Regs. 723-1:1001 (2022).

C. Applicable Law

¶38 Article XXV of the Colorado Constitution authorizes the PUC "to regulate the facilities, service and rates and charges therefor" of public utilities in Colorado. The General Assembly has further granted the PUC broad authority "to do all things, whether specifically designated in articles 1 to 7 of [Title 40] or in addition thereto, which are necessary or convenient in the exercise of such power." § 40-3-102, C.R.S. (2021). Accordingly, the PUC's jurisdiction extends only to public utilities. *See* Colo. Const. art. XXV.

¶39 Section 40-1-103(1)(a)(I) defines a "public utility" to include "every common carrier, pipeline corporation, gas corporation, electrical corporation, telephone corporation, water corporation, person, or municipality operating for the purpose of supplying the public for domestic, mechanical, or public uses."

¶40 As pertinent here, a public utility may not begin construction of a new facility, plant, system, or any extension thereof without first obtaining from the PUC a CPCN verifying "that the present or future public convenience and necessity require, or will require, the construction or extension." § 40-5-101(1)(a), C.R.S. (2021). The purpose of this statutory requirement is "to prevent duplication of facilities and competition between utilities, and to authorize new utilities in a field only when existing ones are found to be inadequate." *W. Colo. Power Co. v. Pub. Utils. Comm'n*, 411 P.2d 785, 791 (Colo. 1966).

D. Application

¶41 With the foregoing principles in mind, we consider whether the PUC (1) regularly pursued its authority, (2) reached a just and reasonable decision, and (3) acted in accordance with the evidence when it granted DCP's motion to dismiss. We conclude that it did.

1. Whether the PUC Regularly Pursued its Authority

¶42 We have opined that "[t]he PUC has regularly pursued its authority when its 'findings of fact and conclusions were based upon adequate evidence, and . . .

the commission reached its decision by applying the appropriate constitutional and legislative standards.'" *San Isabel Elec. Ass'n. v. Pub. Utils. Comm'n*, 2021 CO 36, ¶ 24, 487 P.3d 665, 672 (quoting *Durango Transp., Inc. v. Colo. Pub. Utils. Comm'n*, 122 P.3d 244, 248–49 (Colo. 2005); omission in original).

¶43 Here, in reaching its decision, the PUC looked to the text of section 40-1-103(1)(a)(I) and identified the following pertinent elements of a "public utility": "(a) the entity is a pipeline corporation or gas corporation; (b) operating for the purpose of supplying the public; and (c) for domestic, mechanical or public uses." The PUC then noted that we have previously emphasized the phrase "for the purpose of supplying the public" when analyzing whether a given entity is a public utility. *See Bd. of Cnty. Comm'rs v. Denver Bd. of Water Comm'rs*, 718 P.2d 235, 243 (Colo. 1986). Given that (1) the text of section 40-1-103(1)(a)(I) provides the only definition of "public utility" within the Colorado Revised Statutes or Colorado Constitution and (2) the PUC's analysis is consistent with our precedent emphasizing the portion of the statutory definition requiring that an entity exist for the purpose of supplying the public, we conclude that the PUC applied the appropriate legislative standard in this case.

¶44 We further note that in considering the evidence before it, the PUC accepted as true the facts alleged by Danks regarding DCP's upstream operations, and based on these facts, the PUC concluded that DCP's gas-gathering system did not

meet the statutory definition of a public utility. Indeed, the PUC noted that Danks himself had specifically alleged in his amended complaint that "DCP does not market the raw gas that it gathers in its 'Colorado gas gathering system'" (i.e., that it does not supply the public with such raw gas). Accordingly, Danks can hardly be heard to argue that the PUC's findings and conclusions were not based on adequate evidence.

¶45 Because the PUC applied the appropriate statutory standard to the facts alleged by Danks, we conclude that the PUC regularly pursued its authority here.

¶46 In so concluding, we are not persuaded by Danks's contention that the PUC read into the statute the words "no entity may be considered a public utility unless it sells its gas to end users or delivers gas to end users through its pipelines" and therefore applied the wrong legal standard. Consistent with the above-described precedent and previous PUC decisions determining that in order to be a public utility, a pipeline company must supply something to third-party customers, *see, e.g.*, *HRM Res. II, LLC v. Anadarko Petroleum Corp.*, Decision No. R18-0057, ¶ 62, 2018 WL 656008, at *8 (Colo. PUC Jan. 25, 2018), the PUC reasoned that (1) the product transported by DCP's upstream pipelines was distinct from the product sold beyond its processing plants and (2) "[i]t is not until after the processing plant that the new product—the refined gas—can be consumed by the public." The PUC thus observed, "The fact that the Grand Parkway connects to a processing plant

does not mean the Grand Parkway, Red Cloud, and Lindsay [sic] pipelines transport gas the public can use."

¶47 Contrary to Danks's assertion, this reasoning simply applies—and does not add words to or depart from—the statute's requirement that an entity must operate "for the purpose of supplying the public." § 40-1-103(1)(a)(I).

2. Whether the PUC Reached a Just and Reasonable Decision

¶48 We likewise conclude that the PUC's decision was "just and reasonable." § 40-6-115(3).

¶49 A PUC decision is just and reasonable when it "is within the Commission's authority and has a rational foundation in the facts." *Durango Transp.*, 122 P.3d at 249. We presume that PUC decisions are reasonable. *Id.*

¶50 Here, the decision to dismiss Danks's complaint was squarely within the PUC's authority. *See* Pub. Utils. Comm'n, 4 Colo. Code Regs. 723-1:1308(e) (2022) (permitting respondents to file a motion to dismiss based on a lack of subject matter jurisdiction). And as explained above, the PUC thoroughly and rationally considered the facts alleged by Danks in his amended complaint before determining that DCP's upstream gas-gathering operations did not constitute a public utility such that the PUC had jurisdiction over those activities.

¶51 Danks does not appear to disagree with any of the foregoing. He argues, instead, that the PUC erred by considering claims related to DCP's upstream

operations separately from any claims related to downstream operations. In his view, his amended complaint treated the entire process from upstream gas-gathering through the processing plants and to end-use consumers as one system providing processed gas. As discussed above, however, the substantive allegations of Danks's amended complaint belie this characterization. Specifically, notwithstanding Danks's assertions to the contrary, his amended complaint focused almost exclusively on DCP's upstream gas-gathering activities. Indeed, Danks's sole reference to downstream operations appeared in the middle of a paragraph about who owned the gas in the Grand Parkway pipeline:

> After the raw gas is processed in the processing plants, DCP markets (sells) the residue gas and NGLs to customers, including industrial end users, i.e. to the public.. [sic] The entire public utility (pipelines and processing plants) is hereinafter referred to as the "DCP Public Utility". DCP failed to get the required certificate of public convenience and necessity prior to commencing construction of the DCP Public Utility[.]

¶52 This explanation, however, appeared after his substantive allegations regarding DCP's upstream gas-gathering operation, including his allegation that "DCP Operating Company, LP failed to get a certificate of public convenience and necessity from the Colorado Public Utilities Commission before it began building its 62 mile pipeline project including processing plants, compression stations, etc. in Weld County which it calls the 'Grand Parkway,'" an allegation that formed the basis for his original complaint, as well. Further, in an addendum to his amended

complaint, Danks contended that all of the losses that he described in his amended complaint "occurred as the result of the building of the DCP Grand Parkway which then attracted well drilling and injection wells near the DCP pipeline."

¶53 In these circumstances, we believe that the PUC properly construed Danks's amended complaint as substantively related to DCP's upstream operations.

¶54 We likewise are unpersuaded by Danks's apparent argument that the PUC's decision was unjust because it leaves DCP's alleged monopoly power unchecked. Analogizing to the history of railroads and the Standard Oil Company, Danks asserts that DCP is the sole buyer of raw gas at the privately owned wellheads connected to its gas-gathering system. Danks implies that the PUC should regulate the rates paid for raw gas by DCP, presumably to ensure fair payment to wellhead owners. Danks at no point, however, explains how requiring DCP to seek a CPCN (the purpose of which is to prevent competition among utilities) would serve this goal. And regardless, Danks's concerns involving DCP's *purchase* of raw gas are wholly unrelated to whether DCP's gas-gathering system *supplies* the public, which is the sole issue before us today.

¶55 Accordingly, we conclude that the PUC reached a just and reasonable decision here.

3. Whether the PUC's Decision is in Accordance with the Evidence

¶56 Finally, we note that a PUC decision is in accordance with the evidence if it is supported by "substantial evidence." *Durango Transp.*, 122 P.3d at 250 (quoting *Boulder Airporter, Inc. v. Rocky Mountain Shuttlines, Inc.*, 918 P.2d 1118, 1121 (Colo. 1996)). "Substantial evidence 'means such relevant evidence as a reasonable person's mind might accept as adequate to support a conclusion . . . .'" *Id.* (quoting *Pub. Serv. Co. v. Pub. Utils. Comm'n*, 26 P.3d 1198, 1205 (Colo. 2001)).

¶57 Here, as stated above, Danks himself alleged that "DCP does not market the raw gas it owns and gathers in its Colorado gas gathering system," and he has never disputed the ALJ's factual findings that "DCP does not market or sell any of the raw and unprocessed gas in its gathering system. No end-use consumers are served directly from DCP's gathering system." Accordingly, the PUC's conclusion that DCP does not operate its upstream gas-gathering system for purposes of supplying the public is in accordance with the evidence before it.

¶58 In reaching this conclusion, we note Danks's repeated assertion that the ALJ never held an evidentiary hearing. As the PUC explained, however, it looked to C.R.C.P. 12 for guidance and under that rule, the PUC, like a trial court, could determine jurisdictional issues without an evidentiary hearing if it accepts all of the complainant's assertions of fact as true. *See Hansen v. Long*, 166 P.3d 248, 250

(Colo. App. 2007). Here, the PUC accepted Danks's factual allegations as true and thus reasonably determined that no evidentiary hearing was necessary.

III. Conclusion

¶59 For these reasons, we conclude that the PUC regularly pursued its authority in determining that DCP's gas-gathering system does not meet the statutory definition of a public utility and therefore is not subject to the PUC's jurisdiction. We further conclude that the PUC's decision in this regard was just and reasonable and was in accordance with the undisputed evidence presented to it.

¶60 Accordingly, we affirm the judgment of the district court below.