

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

RE RULE 66, ESTABLISHING)
STANDING TO INTERVENE IN)
APPLICATIONS, OF THE RULES OF)
PRACTICE AND PROCEDURE 4 CCR)
723-1.)

DOCKET NO. 92R-585TR

NOTICE OF PROPOSED RULEMAKING

Published date: November 10, 1992

The Public Utilities Commission for the State of Colorado hereby gives **NOTICE** that it proposes to:

Adopt a new rule, Rule 66, Establishing Standing to Intervene in Applications, of the Commission's Rules of Practice and Procedure found at 4 CCR 723-1.

The proposed new rule is attached to this decision as the Appendix to this decision.

The purpose of this rule, if adopted, is to implement a portion of Senate Bill 86 which was passed by the Colorado Legislature in its 1992 session and signed into law by the Governor effective July 1, 1992. The legislation is codified at Colorado Revised Statutes § 40-10-105(3) (1992 Cum. Supp.) and reads as follows:

A common carrier by motor vehicle seeking to file an intervention in opposition to the issuance of a certificate of public convenience and necessity for carriage of property by motor vehicle shall establish standing to file such intervention. Standing to intervene shall be established by submitting proof of the following with the initial pleading:

(a) That the common carrier by motor vehicle is duly authorized pursuant to a certificate of public convenience and necessity to operate a motor vehicle for the carriage of property over a route or for a territory which is also the subject of the application at issue; and

(b) That the common carrier by motor vehicle is providing or offering to provide, in whole or in part, the service proposed by application at issue.

The proposed rule, if adopted, will create standards for intervenors to meet in order to establish their "standing" to file interventions in opposition to applications seeking a certificate of public convenience and necessity to operate as common carrier by motor vehicle for the transportation of property as defined by § 40-10-101(4), C.R.S. This proposed rule is issued pursuant to § 40-2-108.

The Commission will provide notice of this proceeding pursuant to the State Administrative Procedure Act found at § 24-4-103, C.R.S. Notice of the proposed rules should be given by the Secretary of State as required by § 24-4-103, C.R.S., by November 10, 1992. Notice of these proposed rules will be filed with the Office of Regulatory Reform by October 30, 1992 in compliance with § 24-4-103.5, C.R.S. The hearing on the proposed rules will be held before an administrative law judge on December 17, 1992, at 9 a.m.

THEREFORE THE COMMISSION ORDERS THAT:

1. The Executive Secretary shall file with the Secretary of State the necessary documents to allow for notice of the proposed Rule attached to this decision as the Appendix. The Executive Secretary shall also give notice to all persons who have requested notice.

2. The PUBLIC HEARING for these rulemaking proceedings is set as follows:

Date: December 17, 1992
Time: 9 a.m.
Place: Public Utilities Commission
Commission Hearing Room
1580 Logan Street, OL-2
Denver, Colorado 80203

3. Persons may file written comments to and proposed modifications of the proposed rules by December 1, 1992. The Commission requests that persons proposing modifications use the legislative drafting format. An original and ten copies of all documents shall be filed.

4. Persons shall have an opportunity to submit written data, views, and arguments, and to present the same orally unless the Commission deems oral presentations unnecessary, at the public hearing and the Commission will consider what changes, if any, should be made to these rules.

5. This Decision is effective upon its date of mailing.

DONE IN OPEN MEETING October 7, 1992.

(S E A L)



ATTEST: A TRUE COPY

Bruce N. Smith
Bruce N. Smith
Executive Secretary

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ROBERT E. TEMMER

GARY L. NAKARADO

CHRISTINE E. M. ALVAREZ

Commissioners

ORDER-IQ

BASIS AND PURPOSE, AND STATUTORY AUTHORITY

THE BASIS AND PURPOSE OF THIS RULE IS TO CREATE STANDARDS FOR INTERVENORS TO MEET IN ORDER TO ESTABLISH THEIR STANDING TO FILE AN INTERVENTION IN OPPOSITION TO AN APPLICATION SEEKING A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AS A MOTOR VEHICLE CARRIER OF PROPERTY AS DEFINED BY § 40-10-101(4), C.R.S. THE COMMISSION'S STATUTORY AUTHORITY FOR THIS RULE IS § 40-2-108, C.R.S.

RULE 66

ESTABLISHMENT OF STANDING TO INTERVENE
IN MOTOR CARRIER APPLICATIONS

A motor vehicle carrier seeking to file an intervention in opposition to the granting of emergency temporary authority, temporary authority, or permanent authority (certificate of public convenience and necessity) for carriage of property by motor vehicle shall establish standing to file such intervention by submitting the following with its pleading:

- (a) A copy of its current letter(s) of authority.
- (b) A statement including, as a minimum, the following:
 - (1) A statement identifying which specific parts of intervenor's authority are in conflict with the application;
 - (2) A statement that the authority in conflict is in good standing and is being actively operated;
 - (3) A statement of the extent to which the intervenor is providing service over the routes or in the territory sought in the application, including an approximation of the number of shipments handled in the previous 60 days, and identification of its tariffs including description of any rates or provisions filed for the route or territory sought;
 - (4) Whether the intervenor has refused to provide service within the scope of its certificate.

(5) If the intervenor has not provided service over the routes or in the territory sought within the previous 60 days, a statement of how the intervenor is providing or offering to provide, in whole or in part, common carrier service to the public as proposed by the application, including, but not limited to, descriptions of the type and frequency of its advertising, its solicitation of shippers, and the type and number of motor vehicles owned or leased.

(c) A motor vehicle carrier whose authority in conflict is in suspension when an application is filed, shall have no standing to intervene as a matter of right, and may not file an intervention in opposition to the issuance of a certificate of public convenience and necessity for carriage of property by motor vehicle except by permission as provided in Rule 64(b).

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